

ORDINANCE NO. 2026 – _____

TOWN OF BLUFFTON, SOUTH CAROLINA

AN ORDINANCE AMENDING THE TOWN OF BLUFFTON’S MUNICIPAL CODE OF ORDINANCES, CHAPTER 23, UNIFIED DEVELOPMENT ORDINANCE, ARTICLE 5 – DESIGN STANDARDS, SEC. 5.10 (STORMWATER); AND ARTICLE 9 – DEFINITIONS AND INTERPRETATION, SEC. 9.2 (DEFINED TERMS)

WHEREAS, the Town of Bluffton desires to improve the general safety, welfare, health and properties of the citizens of the Town of Bluffton; and,

WHEREAS, to establish the necessary provisions to accomplish the above, the Town of Bluffton has authority to enact resolutions, ordinances, regulations, and procedures pursuant to South Carolina Code of Laws 1976, Section 5-7-30; and,

WHEREAS, the Town of Bluffton’s Town Code and Ordinances provide guidance and requirements for development within the Town of Bluffton through regulations set forth to protect and promote the health, safety, and welfare of the Town’s citizens, as espoused through the provisions of the Town of Bluffton Comprehensive Plan and as authorized by the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, Title 6, Chapter 29 of the Code of Laws for South Carolina; and

WHEREAS, the Town of Bluffton Town Council adopted the aforementioned standards, which are known as the Unified Development Ordinance, Chapter 23 of the Code of Ordinances for the Town of Bluffton, South Carolina on October 11, 2011 through Ordinance 2011-15; and

WHEREAS, the Unified Development Ordinance unifies the subdivision, land use, development/design regulations, as well as the Old Town Bluffton Historic District Code into a single set of integrated, updated, and streamlined standards; and

WHEREAS, the Town Council shall from time to time examine ordinances to ensure that they are properly regarded, enforced, sufficient and satisfactory to the needs of the community and can further suggest changes as deemed appropriate; and,

WHEREAS, the Strategic Plan for Fiscal Years 2025-26 (“Strategic Plan”) serves as a road map for activities and initiatives to implement the Town’s Vision and Mission Statement to ensure that Bluffton is poised to capitalize on opportunities that advance key goals, which includes amendments to the Unified Development Ordinance to support these goals; and

WHEREAS, the Town of Bluffton Town Council desires to amend the Unified Development Ordinance, Article 5 – Design Standards, Sec. 5.10 (Stormwater); and Article 9 – Definitions and Interpretation, Sec. 9.2 (Defined Terms) to enhance protections of wetlands and wetland buffers for stormwater management.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BLUFFTON, SOUTH CAROLINA, in accordance with the foregoing, the

Town hereby amends the Code of Ordinances for the Town of Bluffton, Chapter 23, Unified Development Ordinance as follows:

SECTION 1. AMENDMENT. The Town of Bluffton hereby amends the Code Ordinances for the Town Of Bluffton, South Carolina by adopting and incorporating certain amendments to Chapter 23 – Unified Development Ordinance, including amendments to the following sections: Article 5 – Design Standards, Sec. 5.10 (Stormwater); and Article 9 – Definitions and Interpretation, Sec. 9.2 (Defined Terms) as shown on Exhibit A attached hereto and fully incorporated herein by reference.

SECTION 2. REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. ORDINANCE IN FULL FORCE AND EFFECT. This entire Ordinance shall take full force and effect upon adoption.

DONE, RATIFIED AND ENACTED this _____ day of _____, 2026.

This Ordinance was read and passed on First Reading & Public Hearing on _____, **2026**.

Larry C. Toomer, Mayor
Town of Bluffton, South Carolina

Marcia Hunter, Town Clerk
Town of Bluffton, South Carolina

A public hearing was held on this Ordinance on _____, **2026**.

Larry C. Toomer, Mayor
Town of Bluffton, South Carolina

Marica Hunter, Town Clerk
Town of Bluffton, South Carolina

This Ordinance was passed at Second and Final Reading held on _____, **2026**.

Larry C. Toomer, Mayor
Town of Bluffton, South Carolina

Marcia Hunter, Town Clerk
Town of Bluffton, South Carolina

EXHIBIT A

Sec. 5.10 Stormwater

Proposed Changes: 1) Revise 5.10, "Stormwater" to include resilience-related language; and 2) Revise 5.10.7, "Wetlands" language to provide clarity to exemptions and exceptions to wetland ordinance, to include a list of allowed activities within wetlands themselves and provide assurances for the protection of wetlands and wetland buffers.

Sec. 5.10.1. General Provisions

Any and all terms used in this Section that are not otherwise specifically defined in Section 9.2 shall be defined pursuant to the *Southern Lowcountry Stormwater Design Manual*. Any undefined terms shall have their ordinary and customary meanings based on the purposes, intent, design objective or other guidance associated with its use in this Section.

A. Intent

1.-3. *(No Changes)*

4. Grading can create problems with storm drainage and water quality by generating non-point source pollution. Grading plans for compliance with overall development shall be to maximize groundwater recharge, minimize runoff, ensure positive drainage within and from the site with no impact on adjacent property, ensure offsite drainage is received to an existing, adequate conveyance system, and prevent ~~M~~ass ~~G~~grading and ~~C~~learing-cutting of a site.
5. These deleterious effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites, manage to protect existing natural features, such as trees and contours, that maintain hydrology and provide water quality control, and to 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.
- ~~6. The Town of Bluffton is required to comply with State and Federal regulations that require the adverse impacts of stormwater runoff rates, volumes and pollutant loads to be controlled and minimized.~~
6. The Town of Bluffton has determined that it is in the public interest to control and minimize the adverse impacts of certain development activities and has established this set of stormwater management provisions to regulate post-construction stormwater runoff rates, volumes and pollutant loads on development sites: as detailed in the *Southern Lowcountry Stormwater Design Manual*.
7. Further, the protection of wetlands and wetland buffer areas from encroachment, pollution, degradation, alteration or elimination is a crucial element of the Town's stormwater and water quality management plans and supports resilience efforts in anticipation of increased flooding, more frequent and severe weather events, future disasters, and changing environmental conditions as well as documented and projected sea-level rise. Procedures to protect, conserve, enhance and maintain wetlands and wetland buffers are in the public interest and support the general welfare of the Town.
8. This Article is essential to the public health, safety or welfare and shall apply to any Development that is subject to a development agreement.

9. Laws of general application throughout the Town necessary to protect health, safety and welfare are anticipated and are provided for in development agreements.
- ~~11. Substantial changes including, but not limited to, flooding, extreme weather events, sea level rise, and wetland protections have occurred, which changes, if not addressed in this Article would pose a threat to public health, safety or welfare of the Town of Bluffton.~~

B. Purpose

1. It is the purpose of this ~~Section~~ Article to protect, maintain, and enhance the environment of the Town and the short and long-term public health, safety, and general welfare of the citizens of the Town by establishing requirements and procedures to control the potential adverse effects of increased stormwater runoff associated with both future Development and existing developed land. Proper management of existing natural features, including wetlands and wetland buffers, and stormwater runoff will minimize damage to public and private property, ~~ensure~~ promote 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 hydrologic characteristics of the area, ~~and~~ facilitate economic development while minimizing associated pollutant, flooding, and drainage impacts, and improve the Town's resilience to changing environmental conditions.
2. This Article specifically authorizes and enables the Town to, at a minimum, ~~to~~ require any or all of the following:
 - a. ~~Prohibit Illicit Discharges to the Stormwater System and receiving waters-;~~
 - b. ~~Define procedures for site plan review, inspection, and enforcement relative to stormwater management-;~~
 - c. ~~Establish decision-making processes surrounding Development activities that protect the integrity of local aquatic resources;~~
 - d. ~~Control the discharge of spills, dumping or disposal of materials other than stormwater to the Stormwater System and receiving waters-;~~
 - e. ~~Address specific categories of non-stormwater discharges and similar other incidental non-stormwater discharges-;~~
 - f. ~~Require temporary erosion and sediment controls to protect water quality to the maximum extent practicable during construction activities, in accordance with current state regulations-;~~
 - g. ~~Define procedures for receipt and consideration of information submitted by the public-;~~
 - h. ~~Address runoff, particularly volume, rate, and quality through the control and treatment of stormwater with structural stormwater management practices facilities and/or Best Management Practices (BMPs) to provide volume control and at least an eighty (80) percent reduction in total suspended solids loads, thirty (30) percent reduction of total nitrogen load, and sixty (60) percent reduction in bacteria load-;~~
 - i. ~~Develop post-construction stormwater quality performance standards, through enforcement of minimum design standards for BMPs-;~~
 - j. ~~Ensure effective long-term operation and maintenance of BMPs-;~~
 - k. ~~Carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to determine compliance and noncompliance with this Article and stormwater permit (permit) conditions including the prohibition of Illicit Discharges to the Town's Stormwater System and~~

- the protection of water quality of the receiving waters and wetlands;
- l. Establish minimum post-development stormwater management standards and design criteria set forth by the *Southern Lowcountry Stormwater Design Manual* (“Design Manual”) with the intent of reducing flooding, channel erosion, and pollutant transport and deposition in local aquatic resources;
 - m. Establish minimum post-development stormwater management standards and design criteria in the *Design Manual* with the intent of preserving existing hydrologic conditions on Development sites;
 - n. Establish design criteria in the *Design Manual* for structural and nonstructural stormwater management practices that can be used to meet the minimum post-development stormwater management standards and design criteria;
 - o. Based on current Natural Resources Inventory, establish that Better Site Design (BSD), natural vegetative buffers, tree conservation, and site planning have been incorporated, documented, and presented in the Development design process to the maximum extent practicable;
 - p. Maintain structural and nonstructural stormwater management practices to ensure that they continue to function as designed and pose no threat to public safety; ~~and,~~
 - q. In the event these requirements cannot be met, a fee-in-lieu shall be required as outlined in *Section 5.10.3.K*; and,
 - r. Define procedures for protection, conservation, enhancement, and proper maintenance of all existing wetlands and wetland buffer areas for stormwater management ~~water quality management~~.

C. Applicability

1. This Section shall apply to any or all of the following activities unless otherwise exempted by Sec. 5.10.1.C.2:
 - a.-b. *(No Changes)*
 - c. Any Land Disturbance, regardless of size, within a Larger Common Plan of Development where multiple, separate and distinct land disturbing activities may occur at different times and on different schedules; ~~and,~~
 - d. Any Land Disturbance within a wetland or wetland buffer area; ~~and~~
 - e. A Major Substantial Improvement of an existing lot; or
 - f. Any illicit discharges
2. The following activities are exempt from ~~this Section~~ 5.10:
 - a. Any maintenance, alteration, renewal, or improvement as approved by the Town which does not alter existing drainage patterns, does not result in change or adverse impact on adjacent property, or create adverse environmental or water quality impacts, and does not increase the temperature, rate, quality, or volume or location of stormwater runoff discharge;
 - b. Projects that are exclusively for agricultural or silvicultural activities, not involving relocation of drainage canals or Land Disturbance within a Wetland, within areas zoned for these uses;
 - c.-d. *(No Changes)*
 - e. ~~Installation of nature trails or pervious pedestrian access paths no greater than five (5) feet in width;~~
 - e. Pruning or trimming of grasses, shrubs, and other smaller vegetation, provided these activities are accomplished without the use of Heavy Machinery;

- f. Planting native species of plants;
 - g. **Non-pesticide r** Removal of invasive species of plants;
 - ~~i. Any outdoor recreation activities not otherwise proscribed by the property owner or another applicable law or regulation, to include hiking, swimming, kayaking, canoeing, boating, horseback riding, hunting, fishing, shell fishing, and camping;~~
 - h. Research of soil, vegetation, water, fish, or wildlife for educational, scientific, or conservation purposes **provided that these activities are accomplished without the use of Heavy Machinery;**
 - i. Maintenance or repair of existing water-control devices or structures, provided the maintenance or repair does not involve enlarging, expanding, constructing, or relocating such water-control structures or devices; or
 - j. Maintenance and repair of existing utilities and roadways, provided the activity does not involve enlarging, expanding, constructing, or relocating such utilities and roadways.
- ~~3. Any illicit discharges.~~
4. The provisions of this Section shall apply throughout the incorporated areas of the Town.

Sec. 5.10.2. Stormwater Management Program

- A. **Coordination with Other Agencies.** The UDO Administrator will coordinate the Town's activities with other federal, state, and local agencies, which manage and perform functions relating to the protection of receiving waters.
- B. **Cooperation with Other Governments and Private Entities.** The Town may enter into agreements with other governmental and private entities to carry out the purposes of this Article. 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 Article 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.

C. **Southern Lowcountry Stormwater Design Manual**

1. The UDO Administrator shall utilize the standards, criteria, and information presented in the *Design Manual* or applicable addendums, appendices, technical memorandums, and/or applicable revisions that may be applied for the proper implementation of this Article. This Manual may be updated and expanded periodically, based on improvements in science, engineering, monitoring, local experience, and state or federal water quality **and quantity** requirements.

The *Design Manual* identifies Special Watershed Protection Areas that have standards and criteria specific to land Development in these areas.

- D. **Compatibility with Other Regulations.** This **Section**Article is not intended to interfere with, modify or repeal any other ordinance, rule, regulation, or other provision of law. The procedures and standards set forth in this Ordinance, and the policies, procedures, and design data specified in the *Design Manual* provide the minimum standards to be adhered to by Development activities under the jurisdiction of the Town of Bluffton. If any regulation or requirement of this **Section**Article is in conflict with any other local, state or federal law, the most restrictive, or whichever imposes the highest

protective standards for ~~human health~~ public health, safety, and welfare or the environment, shall apply.

Sec. 5.10.3. Standards

A. General Requirements

1. All Development in the Town, including single family lots not part of a Larger Common Plan of Development, meeting applicability requirements in Section 5.10.1.C.1, shall meet the General Requirements to the Maximum Extent Practicable.
2. All Development activities shall utilize Structural and Nonstructural Stormwater Management Practices to control and minimize the increased stormwater runoff rates, volumes, and pollutant loads caused by Development in accordance with the criteria presented in the Design Manual.
3. For Structural and Nonstructural Stormwater Management Practices not included in the *Design Manual*, or for which pollutant removal and runoff reduction rates have not been provided, the effectiveness of the Structural and Nonstructural Stormwater Management Practices must be documented through prior studies, literature reviews, or other means and receive approval from the Town before being included in the design of a stormwater management system. In addition, if the site is located in a Watershed Protection Area or a Special Watershed Protection Area, the Town may impose additional requirements, which are located in the *Design Manual*, as deemed necessary.
- ~~3. All Development in the Town, including single family lots not part of a Larger Common Plan of Development, meeting applicability requirements in Section 5.10.1.C.1, shall meet the General Requirements to the Maximum Extent Practicable.~~
4. All Development shall disconnect Impervious Surfaces with vegetative surfaces to the ~~M~~maximum Extent Practicable.
5. Stormwater runoff shall be controlled in a manner that:
 - a. Promotes positive drainage within the site and from structures and Impervious Surfaces resulting from Development.
 - b. Ensures no negative impact on adjacent and downstream properties ~~/~~ or structures, as detailed in the *Design Manual*.
 - c. Includes the use of vegetated conveyances, such as swales and existing natural channels to promote infiltration.
 - d. Promotes runoff velocities that maintain sheet flow condition to prevent erosion and promote infiltration.
 - e. Limits its interaction with potential pollutant sources that may become water-borne and create non-point source pollution.
6. ~~Better Site Design, Natural Vegetative Buffers, Wetland Conservation~~ **Wetland and Wetland Buffer Protection, and Tree Conservation.** Better Site Design, natural vegetative buffers, wetland conservation ~~conservation~~ protection of Wetlands and Wetland Buffers, and tree conservation play an integral part in minimizing the volume of stormwater runoff by promoting infiltration and acting as a first line of treatment of ~~water quality~~ stormwater runoff pollution. As such all Development subject to this ~~Section~~ Article shall comply with the following:
 - a. Better Site Design practices set forth in the Design Manual to the Maximum Extent Practicable;

- b. Any and all ~~Wetland Buffer~~ and other natural vegetative buffer requirements of this Article; other applicable Sections of the UDO, and if applicable, any approved concept plan, and/or approved master plan-;
- c. Wetland ~~and Wetland Buffer protection conservation~~ requirements of this Article, and if applicable, any approved concept plan, and/or approved master plan-; and
- d. Tree conservation as required by this UDO.

B. Permit Application Requirements

No property owner or Developer shall perform any Development activity without first meeting the requirements of this *Section 5.10* and the *Design Manual* and having been issued a stormwater permit from the Town. Unless specifically exempted by this *Section 5.10*, any property owner or Developer proposing Development activity shall submit to the Town a Stormwater Permit application and accompanying items as required in the *Design Manual*.

The UDO Administrator shall use the criteria and information, including technical specifications and standards, in the *Design Manual* as the basis for decisions about stormwater plans and about the design, implementation and performance of Structural and Non-structural Stormwater Management Practices as defined the *Design Manual*. Specifically, permit applications shall contain standards as outlines in t~~The *Design Manual* standards shall describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, the components of a project plan necessary to meet the requirements of this Article and post-construction maintenance and inspection requirements.~~

The stormwater permit shall be valid for five (5) years from date of approval unless an extension is applied for and approved by the UDO Administrator.

C. Maximum Extent Practicable Process

The Maximum Extent Practicable (“MEP”) process defined by the *Design Manual* shall be the basis of submittals for plan approval under this Article. The consideration for a waiver of this Article’s requirements will rely on the MEP submittal and UDO Administrator review.

D. Stormwater Surety

Financial sureties for the cost of stormwater facilities approved for the proposed Development and/or Redevelopment shall be provided in accordance with the Town stormwater surety process as established in Section 3.13 and stormwater permit issuance process in the *Design Manual*~~Section 3.13~~.

E. (No Changes)

F. Stormwater Conveyance System

Site development plans must include sStormwater conveyance systems, which may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutters, swales, channels, ditches, and energy dissipaters, shall be provided when necessary for the protection of public right-of-way and properties adjoining Development sites. Stormwater conveyance systems that are designed to convey stormwater runoff from more than one parcel shall meet the following requirements:

1. Methods used to calculate stormwater runoff rates and volumes shall be in accordance with the ~~latest edition of the~~ *Design Manual*;

2. All culverts, pipe systems, and open channel flow systems shall be sized in accordance with the stormwater management design plan using the methods included in ~~the latest edition of the~~ *Design Manual*; and,
3. Planning and design of stormwater conveyance systems shall be in accordance with the criteria and specifications found in ~~the latest edition of the~~ *Design Manual*; and
4. Off-site discharge points in the final approved stormwater plan submission and/or grading plan must be identified on the site plan. The receiving conveyance system must be determined to safely convey the 25-year, 24-hour storm, as certified by a licensed South Carolina Professional Engineer, and to not adversely impact downstream properties.

G. Overbank Flood Protection

All stormwater management systems shall be designed to control the post-development peak discharge generated by the Overbank Flood Protection storm event, as defined in ~~the latest edition of the~~ *Design Manual*, to prevent an increase in the frequency and magnitude of damaging overbank flooding and safely convey the design storms. A stormwater management system complies with this requirement if:

1. It provides Overbank Flood Protection in accordance with the criteria and information provided in ~~the latest edition of the~~ *Design Manual*; and,
2. Appropriate Structural and Nonstructural Stormwater Management Practices have been selected, designed, constructed, and maintained in accordance with the standards, criteria, and information presented in ~~the latest edition of the~~ *Design Manual*; and
3. Off-site discharge points in the final approved stormwater plan submission must be identified on the plan. The receiving conveyance system must be determined to safely convey the 2- to 25-year, 24-hour storm, as certified by a licensed South Carolina Professional Engineer, and to not adversely impact downstream properties.

H. Extreme Flood Protection

All stormwater management systems shall be designed to control and/or safely convey the post-development peak discharge generated by the Extreme Flood Protection storm event, as defined in ~~the latest edition of the~~ *Design Manual*, to protect downstream properties from flood damage, maintain the boundaries of existing floodplains, and protect the physical integrity of downstream stormwater conveyance features and flood control facilities. A stormwater management system complies with this requirement if:

1. It provides Extreme Flood Protection in accordance with the criteria and information provided in ~~the latest edition of the~~ *Design Manual*;
2. Appropriate Structural and Nonstructural Stormwater Management Practices have been selected, designed, constructed, and maintained in accordance with the standards, criteria, and information presented in ~~the latest edition of the~~ *Design Manual*; and

Adequate 100-year flow overflow path (as documented in the 10% analysis submission) from the site to adjacent properties is identified and determined to not have a negative impact on existing downstream receiving conveyance system(s), adjacent properties, and/or structures. This overflow path must be certified by a licensed South Carolina Professional Engineer.

I. Structural Stormwater Management Practices

All Structural Stormwater Management Practices shall be selected, designed, constructed, and maintained in accordance with the standards, criteria, and information presented in the latest edition of the *Design Manual* and any relevant addenda. Applicants shall consult the latest edition of the *Design Manual* for guidance on selecting Structural Stormwater Management Practices that can be used to satisfy the post-construction stormwater management criteria.

J. **Grading**

Mass Grading and Clearing-cutting shall not be permitted. No land within the Town shall be cleared, disturbed, graded, excavated, except as follows: It shall be unlawful to perform any Land Disturbance, or land disturbing activity, of 5,000 or more square feet or accruing a total exceedance of 5,000 square feet of impervious surface without a Grading Plan approved by the Town.

~~1. It shall be unlawful to perform any Land Disturbance, or land disturbing activity, of 5,000 or more square feet or accruing a total exceedance of 5,000 square feet of impervious surface without a Grading Plan approved by the Town of Bluffton.~~

1. Grading Plans shall be filed with and become part of any Application that equals or exceeds the threshold limits provided above. Such plans shall be prepared in accordance with [Article 3](#) and shall follow the requirements set forth in [Article 5 Design Standards](#).
2. Amendments to Grading Plans, Amendments, changes, or modifications of a minor nature to a plan required as a result of field conditions arising during construction may be required or approved by the UDO Administrator.
3. Soil erosion and sediment control measures shall, at a minimum, conform to the Standards for Soil Erosion and Sediment Control per the *Design Manual*.

K. *(No Changes)*

- L. **Detention Waiver.** Individuals seeking a detention waiver from the requirements of this Section may submit to the UDO Administrator a request for a waiver in accordance with the *Design Manual*.

Sec. 5.10.4. Maintenance

A. **General Requirements**

1.-2. *(No Changes)*

3. **Annual Maintenance Inspection and Report.** The person responsible for maintenance of any structural BMP installed pursuant to this Article shall submit to the UDO Administrator an inspection report from a certified post-construction BMP inspector, a registered South Carolina Professional Engineer or Landscape Architect. The inspection report, at a minimum, shall contain all of the following:

- a. The name and address of the land owner;
- b. 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;
- c. A statement that an inspection was made of all structural BMPs, and must include date of inspection;
- ~~d. The date the inspection was made;~~
- d. A statement that all inspected structural BMPs are performing as originally designed/ and intended, and comply with the terms and conditions of the approved maintenance agreement required by this Article;
- e. The inspector's original signature and/or seal of the engineer inspecting the structural BMPs;

and

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

All inspection reports shall be on Town forms provided to the UDO Administrator. An original inspection report shall be provided to the UDO Administrator one year from the date of As-Built certification and thereafter, every three (3) years on or before the date of the As-Built certification.

B. Operation and Maintenance Agreement

1. Prior to the issuance of stormwater permit requiring a structural BMP pursuant to this Article, the applicant or owner of the site must execute an operation and maintenance agreement/~~covenant~~ for each structural BMP identified on the approved Stormwater Management Plan for recordation in Beaufort County Register of Deeds. The operations and maintenance agreement must be approved by the UDO Administrator or his their designee, and shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP.
2. The operation and maintenance agreement shall:
 - a. Require the owner or owners to maintain, repair and, if necessary, reconstruct the structural BMP to ensure the BMP functions as designed and intended in perpetuity;~~;~~
 - b. For each BMP identified on the approved Stormwater Management Plan, state the terms, conditions, and schedule of maintenance for each structural BMP;~~;~~
 - c. Grant to the Town a right of entry to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the Town to assume responsibility for the structural BMP;~~;~~
 - d. Allow the Town to recover from the property or ~~home owner's~~ homeowner's association and its members any and all costs the Town expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the Town all of its expended costs, after 45 days written notice, shall constitute a breach of the agreement. The Town shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both, in case of a deficiency. Interest, collection costs, and attorney fees shall be added to the recovery;~~;~~
 - e. Provide a statement that this agreement shall not obligate the Town to maintain or repair any structural BMPs, and the Town shall not be liable to any person for the condition or operation of structural BMPs;~~;~~
 - f. Provide a statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town to enforce any of its ordinances as authorized by law;~~;~~
 - g. Contain a provision indemnifying and holding harmless the Town for any costs and injuries arising from or related to the structural BMP, unless the Town has agreed in writing to assume the maintenance responsibility for the structural BMPs accepted dedication of all rights necessary to carry out that maintenance;~~;~~ and
 - h. Contain an attachment with the locations, dimensions, elevations, and characteristics of all structural BMPs detailed in the Stormwater Management Plan. The attachment shall include a north arrow, scale, boundary lines of the site, lot lines, existing and proposed roads and other information necessary to locate the structural BMPs.

3. Operation and Maintenance Agreement Recordation

Upon approval by the UDO Administrator or ~~his~~their designee, the operations and maintenance agreement shall be recorded with the Beaufort 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 operation and maintenance agreement shall be given to the UDO Administrator prior to issuance of the development permit.

- C. **Records of Installation and Maintenance Activities.** The owner of each structural BMP shall keep records of installation, 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 UDO Administrator.
- D. **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.

Sec. 5.10.5. Illicit Discharges and Connections

A.- B. *(No Changes)*

- C. **Illicit Connections.** Connections to a receiving water and/or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in this section are unlawful. Prohibited connections include, but are not limited to floor drains, ~~waste water~~wastewater from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and ~~waste water~~wastewater from septic systems. Where such connections exist in violation of this section and said connections were made prior to the adoption of this Article or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove or correct the connection.
- D. **Spills.** Spills or leaks of polluting substances released, discharged to, or having the potential to be 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. 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 Bluffton Township Fire Department and Town of Bluffton Police Department (who will also notify the UDO Administrator, 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.

E. **Nuisance.** *(No Changes)*

Sec. 5.10.6. Inspections

A.-C. *(No Changes)*

- D. **Wetland and Wetland Buffer Inspections.** The Town is authorized under this Section to inspect a project's impact to wetlands and wetland buffer areas to determine compliance with conditions and

provisions of this Article or to perform any duty imposed upon the owner or developer by this Ordinance.

Sec. 5.10.7. Wetlands

A. General Requirements

1. This Section shall apply to all ~~building, development, redevelopment, and site alteration~~ Land Development within a wetland or wetland buffer area, except as otherwise set forth herein.
2. Any person proposing to carry out a wetland or wetland buffer disturbance under this Ordinance must, prior to the commencement of the activity, submit a Stormwater Permit application to the UDO Administrator and obtain permit approval.
3. The UDO Administrator shall review all materials submitted by an applicant and shall have the authority to require additional information about the project from the applicant, schedule a site visit, or require a preliminary meeting with the applicant. The UDO Administrator may also request a review of the project by the Development Review Committee (DRC).
4. The UDO Administrator has the authority to issue, deny, or conditionally approve stormwater permits for activities that impacts to Wwetlands and/or Wwetland Buffers, as documented in writing, consistent with the standards, goals, and criteria set forth in this Ordinance, ~~and~~ subject to the procedures established herein.
5. Under the UDO Administrator's discretion other development activities may be excepted from the provisions of this Section, in accordance with Town policies and guidelines and as documented in writing, after consideration of design constraints, existing reports, permits, covenants, and mitigation bank credits that adequately protect the wetland's water quality services, flood retention functions, and mitigate any loss of or damage to wildlife habitat or native plant communities.
6. The UDO Administrator may, in its discretion and in accordance with Town policies and guidelines, deem additional measures necessary prior to allowing the excepted activities in Sections 5.10.7.C4 and 5.10.7.C5, subsections (a) through (j) to proceed including, but not limited to, reports and permits, and covenants, and mitigation bank credits to adequately protect the wetland's water quality services, flood retention functions, and mitigate any loss of or damage to wildlife habitat or native plant communities. Such measures shall be documented in writing.
7. The regulation of land uses both within and adjacent to Wetlands, having been determined to be in the best interest of the Town, shall be done in a manner consistent with the review procedures and performance standards identified herein which reflect the relative importance, values, and functions of these areas.
8. No provisions of this Ordinance shall be construed to relieve the Applicant from the requirement to obtain permits issued by local, state, or federal agencies, prior to the commencement of any land disturbance activity within the boundaries of a wetland or wetland buffer.
9. This Section shall not apply to activities in wetlands that are within the jurisdiction of the federal government ("jurisdictional wetlands") as determined by the U.S. Army Corps of Engineers ("Corps"), provided that such impacts are permitted or approved under a valid permit, exemption, or other authorization (collectively, a "Corps Permit") issued by the ~~United States Army Corps of Engineers~~ under the rules of the appropriate district and provided that:

- a. the Corps Permit has not expired;
- b. the Corps Permit was issued on or prior to September 8, 2023; and,
- c. the terms and conditions of the issued Corps Permit for such project continue to be met in full. A copy of said Corps Permit shall be provided to the Town along with any statement of conditions.

For the purposes of this subsection (9), the jurisdictional nature of the wetlands shall be based on the federal law in effect at the time the Corps issues the Corps Permit.

10. For any Corps Permit issued after September 8, 2023, such Corps Permit shall govern any activities within wetlands that are within the jurisdiction of the federal government and subject to federal protection (i.e., jurisdictional wetlands) as determined by the United States Army Corps of Engineers, provided that the Corps Permit has not expired and the terms and conditions of the issued Corps Permit for such project continue to be met in full. A copy of said Corps Permit shall be provided to the Town along with any statement of conditions. The jurisdictional determination by the Corps for the Wetland(s) shall also be provided to the Town.
 - a. Exceptions. Following completion of Corps Permit activities, all other requirements established in this Section shall be applicable including, but not limited to, the requirement of a fifty (50) ft. Wetland Buffer.

For the purposes of this subsection (10), the jurisdictional nature of the wetlands shall be based on the federal law in effect at the time the Corps issues the Corps Permit.

B. Wetland Delineation

1. **Wetland Delineation Required.** Except as otherwise set forth in this Section, any person proposing to carry out a Land Disturbance or perform any applicable activity, as set forth in Section 5.10.1.C of this Ordinance, shall, prior to commencing the activity or the Land Disturbance, provide the Town with a Wetland Delineation completed within the last five (5) years.
2. **Exceptions.** A Wetland Delineation shall not be required if either of the ~~site is less than five (5) acres and~~ the following conditions are met:
 - a. The owner of the site certifies, via notarized affidavit, to the Town that to the best of their knowledge and belief, there are no Wetlands or Wetland Buffers on the site; and, ~~no~~ no Wetlands are identified on the site by any prior Wetland Delineations, or any existing watershed plans or Advanced Identification of Disposal Areas (ADID) studies, interim watershed plans, National Resources Conservation Service (NRCS) wetland inventory maps, ~~or~~ United States Fish and Wildlife Service National Wetlands Inventory Maps; or Town wetland maps; and,
 - b. The site is less than five (5) acres and the ~~The~~ Land Disturbance or activity proposed is accessory to the existing use and does not increase the density of the site.

C. ~~Wetlands and Wetland Buffers and Setbacks~~ Wetlands and Wetland Buffers and Setbacks

1. **Wetland Buffer Calculations Areas.** Wetland buffers are to be calculated by measuring horizontally outward from and perpendicular to the edge of the Wetland, as defined herein and

as delineated in accordance with 5.10.7.B. They must extend the entire length of the Wwetland Ddelineation within the property.

2. **Applicability.** A minimum buffer of fifty (50) feet shall be provided along the perimeter of all Wetlands.
3. **Prohibited Activities within Wetlands and Wetland Buffers.** The following activities are specifically prohibited within a Wetland or Wetland Buffer unless expressly authorized herein or elsewhere within the UDO.
 - a. ~~Removal, excavation, or disturbance of the soil~~Land Disturbance, except for minimal disturbance associated with the installation of trees and plants as approved by the UDO Administrator, where a Wetland Buffer is re-established;
 - b. Dumping or filling with any materials;
 - c. Placement of any sod or garden of any type;
 - d. Placement of structures or other pervious or impervious surfaces; and,
 - e. Removal or destruction of trees, plants, grasses, or vines.
4. **Exceptions within Wetland Buffers.** The following activities ~~may occur~~are permitted in a required Wetland Buffer, subject to specified limitations, ~~and the requirements below,~~any other applicable UDO regulations, and as approved by the UDO Administrator.
 - a. Maintenance of existing buffer ~~landscaping in a manicured fashion~~vegetation, ~~as approved by the UDO Administrator;~~
 - b. Construction and maintenance of public multi-purpose pathways, including minor associated structures such as footbridges, benches, and signage, provided:
 - (1) the multi-purpose pathway is not more than ten (10) feet wide;
 - (2) the multi-purpose pathway is pervious to the maximum extent practicable; and,
 - (3) Motorized vehicles are prohibited with the exception of American Disabilities Act-compliant motorized wheel chairs, or vehicles used for a public purpose including, but not limited to, safety, maintenance or repair of publicly owned facilities or other infrastructure.
 - c. Construction and maintenance of pedestrian walkways, including minor associated structures such as benches and signage, that provide public access to adjacent wetlands for wildlife management and viewing, fishing, and recreational purposes, or that provide access to approved water-dependent development activities – provided the walkway is not more than five feet wide and is pervious;
 - d. Construction and maintenance of pervious bulkheads or revetments, including associated backfill in tidal Wwetland Buffers – provided:
 - (1) A Wetland Buffer in accordance with the standards in this section is re-established; and
 - (2) The UDO Administrator approves the replanting plan and any tree removal;
 - e. Construction and maintenance of impervious bulkheads or revetments;
 - f. Essential development activities such as stormwater management facilities and water, sanitary sewer, telephone, natural gas, cable TV, or other utility lines – provided:

- (1) Stormwater management facilities and utility lines that must cross the buffer shall do so at approximately a right angle to minimize the area of Wetland Buffer width disturbed; and,
 - (2) Stormwater management facilities and utility lines may be located within the Wetland Buffer if the utility or drainage easement allows the vegetation necessary to provide for significant filtration of stormwater runoff before it reaches the Wetland, and if the applicant can demonstrate that the facility or utility line will not degrade or harm the Wetland protected by the impacted buffer, and if land disturbance is minimized to the MEP; otherwise the UDO Administrator shall require an additional buffer width to provide the space for such filtration between the facilities or utility lines and the Wetland.
- g. Water-dependent development activities such as docks, boat ramps, shoreline stabilization, and stream and wetland restoration;
- h. Limited removal of the following:
- (1) Trees or other vegetation determined by the UDO Administrator to be dead, dying, or diseased, provided the root system is retained intact;
 - (2) Non-native trees or other vegetation determined by the UDO Administrator to constitute a threat to the growth or reintroduction of native species of vegetation;
 - (3) Fallen trees, tree limbs, brush, and similar debris that have accumulated in or along stream beds and are determined by the UDO Administrator to substantially impede stream flow;
 - (4) Fallen trees, tree limbs, and brush that are determined by the UDO Administrator to impede pedestrian or bicycle traffic along approved multi-purpose pathways and pedestrian walkways.
- ~~i. Any impervious surfaces shall either be sloped away from the wetland and stormwater runoff from them shall be routed over a greater distance for filtration purposes, or constructed or installed in accordance with an alternative filtration design approved by the Official as ensuring that the impervious surfaces do not adversely impact the natural functionality of the Wetland Buffer;~~
- ~~j. Under the UDO Administrator's discretion other development activities may be excepted from the provisions of this Section after consideration of design constraints, existing reports, permits, covenants, and mitigation bank credits that adequately protect the wetland's water quality and mitigate any loss of or damage to wildlife habitat or native plant communities.~~
- ~~k. The UDO Administrator may, in its discretion, deem additional measures necessary prior to allowing the excepted activities in subsections (a) through (j) to proceed including, but not limited to, reports, permits, covenants, and mitigation bank credits to adequately protect the wetland's water quality and mitigate any loss of or damage to wildlife habitat or native plant communities.~~
5. Exceptions within Wetlands. The following activities may occur in a Wetland, subject to specified limitations and the requirements below and as approved by the UDO Administrator.
- a. Construction and maintenance of public boardwalks;
 - b. Construction and maintenance of multi-use pathways, including minor associated structures such as footbridges, benches, and signage, provided the pathway is not more than ten (10) feet wide, pervious to the maximum extent practicable, and not to be used by motorized

vehicles with the exception of American Disabilities Act-compliant motorized wheel chairs, or vehicles used for a public purpose including, but not limited to, safety, maintenance or repair of publicly owned facilities or other infrastructure;

- c. Water-dependent development such as docks, boat ramps, shoreline stabilization, and stream and wetland restoration; and
- d. Routine maintenance and repair of existing structures such as piers.

D. Other Requirements

1. **Notification of Start of Project.** *(No Changes)*
2. **Temporary Survey Stakes.** Temporary survey stakes or flags delineating boundaries between ~~W~~wetlands, ~~Wetland B~~buffer areas, ~~setbacks~~, and adjacent property must be placed at all project sites by an engineer or surveyor. The markers shall follow the contour of the ~~W~~wetlands, ~~and~~ Wetland ~~B~~buffer area, ~~and setbacks~~ and shall be placed not more than fifty (50) feet apart.
3. **Assurances of Protection.** Assurances for the protection of Wetlands will be provided by the applicant as part of the application/certification process established in Article 3. This may take the form of deed restrictions, conservation easements, permit restrictions or other assurances of protection as approved by the UDO Administrator.
 - a. Permit Restrictions. An assurance of protection may be provided by the Applicant to the Town by executing a Permit Restriction Form that shall remain in the Town's records. In executing said form, Applicant or any successor in interest, may not for a period of five (5) years, submit an application for wetland impacts on the Wetlands shown on the recorded survey, as required in Subsection b herein. This permit restriction shall not apply to the Wetland Buffers and may be waived by the UDO Administrator solely for public purposes.
 - b. Recordation Required. Wetland Buffer areas and their protected wetlands must be platted and recorded with the Beaufort County Register of Deeds, along with a description of the restrictions.

Sec. 5.10.8 – Violations, Enforcement, and Penalties *(No Changes)*

Sec. 9.2 Defined Terms

Proposed Changes: 1) Addition of definitions of “heavy machinery” and “wetland buffer”; and 2) Revise current definition of “wetland delineation.”

Heavy Machinery: Large, powerful, heavy-duty vehicles and machines used for construction, earthmoving, demolition, mining, and farming; featuring powerful hydraulic systems and specialized attachments for tasks like digging (excavators), lifting (loaders, forklifts), grading (motor graders), and hauling (dump trucks).

Wetland Buffer: A transition zone between a Wetland and Upland areas, designed to protect the Wetland’s water quality, wildlife habitat, and ecological functions by filtering pollutants, stabilizing soil,

and moderating runoff from Development. The wetland buffer shall be subject to the regulations for Wetlands as defined in this Ordinance and shall be determined to be the area extending horizontally away from and paralleling the outermost boundary of a Wetland.

Wetland Delineation: A wetland delineation report, identifying and evaluating the boundaries, location, limits, area, and quality of all on-site Wetlands, with such delineation to be conducted in accordance with the “Corps of Engineers Wetland Delineation Manual,” technical report: Y-87-1, from 1987, as may be amended from time to time. When such a delineation and report is required as part of a land use application, such report and delineation ~~may~~shall be required to be updated and revised if the original report was prepared more than ~~three~~five (5) years prior to the date of submission of the land use application. The wetland delineation report shall be completed by an individual with professional knowledge or experience in identifying the boundaries of wetlands; including, but not limited to, professionals in the fields of environmental science, wetland biology and ecology (e.g., wetland scientist).