

## **ORDINANCE 03-1675**

**AN ORDINANCE OF THE CITY OF LONGWOOD, FLORIDA, RELATING TO STORMWATER MANAGEMENT; REPEALING CHAPTER 24 “STORMWATER MANAGEMENT”, OF THE CITY CODE OF LONGWOOD, FLORIDA, AND ENACTING A NEW CHAPTER 24 “STORMWATER MANAGEMENT”; MAKING FINDINGS, PROVIDING DEFINITIONS, CONTROLLING STORMWATER DISCHARGES TO THE CITY’S SYSTEM, REQUIRING TREATMENT AND MANAGEMENT OF STORMWATER DISCHARGES; CONTROLLING DISCHARGE BETWEEN INTERCONNECTED SYSTEMS; PROHIBITING ILLICIT DISCHARGES AND ILLICIT CONNECTIONS, PROVIDING FOR INSPECTIONS AND MONITORING OF COMPLIANCE, REQUIRING MAINTENANCE, PROVIDING EXEMPTIONS, AND PROVIDING FOR ADMINISTRATION, ENFORCEMENT, PENALTIES AND LEGAL PROCEEDINGS; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Article VIII, Section 2, Florida Constitution (1968), and Chapter 166, Florida Statutes, as amended, the city commission of the City of Longwood, Florida has all powers of local self-government to perform city functions and to render city services in a manner not inconsistent with general or special law, and such power may be exercised by the enactment of city ordinances; and

**WHEREAS**, the Federal Clean Water Act, 33 U.S.C. 1251 et seq., requires certain governmental entities such as the city, to implement stormwater management programs; and

**WHEREAS**, pursuant to the Federal Clean Water Act, 33 U.S.C. 1251 et seq., the United States Environmental Protection Agency has published rules for stormwater discharge permits, and the city has been issued, as co-permittee with Seminole County, City of Altamonte Springs, City of Winter Springs, City of Sanford, City of Lake Mary, City of Casselberry, City of Oviedo and Florida Department of Transportation, such a permit; and

**WHEREAS**, said permit requires the city to prescribe legal authority for control of stormwater pollution; and

**WHEREAS**, said permit requires legislation to establish the regulation and maintenance of the stormwater management system; and

**WHEREAS**, the control of the discharge of pollutants into the city’s storm sewer system and the regulation and maintenance of the stormwater management system provides a benefit to the health, safety and welfare of the citizens of the city and Seminole County;

**NOW THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF LONGWOOD, FLORIDA;**

**SECTION ONE:** Chapter 24, “Stormwater Management,” of the City Code of Longwood, Florida, be repealed and a new Chapter 24 “Stormwater Management” shall hereafter be added to read as follows:

**ARTICLE I. IN GENERAL**

**Sec 24-1. Authority**

The city is authorized by the Florida Constitution and the provisions of the Florida Statutes, Chapter 163, Chapter 180 and Chapter 403, to establish and administer programs for stormwater management, including the control of pollution discharged to the city’s storm sewer system.

**Sec 24-2. Intent**

It is the intent of this chapter for the city to establish stormwater management as a city utility in accordance with Florida Statute 403.0893 and to establish a program of stormwater utility fees for stormwater management services to be levied against all property within the city sufficient to plan, construct, operate, and maintain its stormwater management system and to accomplish the functions of said utility. These functions include, but are not limited to, maintenance, planning, design, construction, regulation, surveying, and inspection as they relate to stormwater management systems and facilities of the city.

**Sec. 24-3. Definitions**

For the purposes of this chapter, the following definitions shall apply; words used in the singular shall include plural, and the plural, singular; words used in the present tense shall include the future tense. The word “shall” is mandatory and not discretionary. The word “may” is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use.

*“Best Management Practices” or “BMP’s”* means schedules of activities, prohibitions of practices, maintenance procedures, treatment methods and other management practices to prevent or reduce pollutants from entering the municipal storm sewer system or being discharged from the municipal storm sewer system.

*“City”* means the City of Longwood, Florida.

*“City administrator”* means the city administrator of the City of Longwood, Florida, or his or her designee.

“*Clean Water Act*” or “*CWA*” means the Federal Water Pollution Control Act, 33 USC 1251 et seq. as amended.

“*Commissioners*” means the city commissioners of the City of Longwood, Florida.

“*Construction Activities*” means the alteration of land during construction and includes such activities as clearing, grading and excavation.

“*Contributing runoff*” means the area of a parcel from which stormwater will result in runoff. For the city, the contributing runoff of each parcel is estimated at one hundred (100) percent of the square feet of impervious surface located on the parcel.

“*County*” means the County of Seminole, Florida.

“*Department*” means the Community Services Department.

“*Developed property*” means any property altered in appearance by removal of vegetation, grading of the ground surface and the construction of a structure or impervious surface.

“*Discharge*” means the release of liquid, solid or gaseous material and includes, but is not limited to, a release, spilling, leaking, seeping, pouring, emitting, emptying and/or dumping of any substance of material.

“*Equivalent drainage unit (EDU)*” means the basic unit for the computation of storm water utility fees. Individual family and individual multifamily residential properties shall be equal to one (1) equivalent drainages unit. Nonresidential/ commercial properties will have EDU’s computed on the basis of one (1) EDU equaling two thousand eight hundred ninety-eight (2,898) square feet of impervious areas.

“*Feepayer*” means the owner or occupant of real property in the city which contributes stormwater runoff directly or indirectly to and/or which benefits from the city as stormwater management system.

“*Illicit Connection*” means point source discharge to the city’s municipal storm water system or to waters of the United States, which is not composed entirely of stormwater and/or which is not authorized by a permit.

“*Illicit Discharge*” means a discharge to the city’s storm sewer system or to waters of the United States which is not composed entirely of stormwater, unless exempted pursuant to this chapter, and/or a discharge to the city’s storm sewer system or to waters of the United States which is not in compliance with federal, state and city permits.

“*Impervious areas*” means those hard surfaced areas which either prevent or severely restrict the entry of water into the soil mantle, as it entered under natural conditions prior to development, and/or cause water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas and other surfaces which similarly impact the infiltration or runoff patterns which existed prior to development, including normal water in ponds and lakes.

“*Industrial Activities*” means activities at facilities identified by the United States Environmental Protection Agency as requiring an NPDES stormwater permit in accordance with Article 40 Section 122.26 of the Code of Federal Regulations and/or amendments thereto.

*“Interim stormwater utility fee”* means the charge for all single-family, multifamily, and nonresidential/commercial property until such time the stormwater utility fees are determined and adopted by resolution.

*“Multifamily residential properties”* shall include all duplex, condominium, apartment, townhouse, and other properties containing more than one (1) dwelling unit. However, retirement and publicly assisted housing complexes shall be treated as nonresidential/commercial properties for calculation of stormwater utility fees.

*“Municipal Separate Storm Sewer System” or “MS4”* means a conveyance, storage area or system of conveyances and storage areas including, but not limited to, roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, storm drains, treatment ponds and other structural BMP’s owned or operated by a local government that discharges to waters of the United States or to other MS4’s, that is designed solely for collection, treating or conveying stormwater, and that is not part of a publicly owned treatment works (POTW), as defined by Article 40 Section 122.2 of the Code of Federal Regulations or any context may require.

*“Nonresidential / commercial properties”* shall include all property used for commercial, industrial, retail, governmental, or other nonresidential purpose(s) and shall include all real property in the city not classified as single-family or multifamily as defined in this section.

*“Owner, tenant, occupant”* shall include the executors, administrators, successors, and assigns of the person referred to; and the covenants and agreements contained in any contract between the department and its consumers should be binding upon an inure to the benefit of the successors, heirs, executors, administrators or assigns of the respective persons thereto.

*Parcel*” means the area of land for which the EDU calculation is determined, including all buildings and appurtenances situated on the premises.

*Person*” means any individual, partnership, firm, organization, corporation, association or other legal entity, whether singular or plural, as the context may require.

*Pervious areas*” means that area within the city which is, under standard conditions, permeable to stormwater runoff and surface water.

*Point Source*” means any discernible and confined conveyance including, but not limited to any pipe, ditch, channel, conduit, well, container, rolling stocks, concentrated animal feeding operation, vessel or other floating craft from which pollutants are discharged. This term does not include return flows from irrigated agriculture.

*Pollutant*” includes, but is not limited to dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.), heat, wrecked or damaged equipment, rock, sand and industrial, municipal (excepting the city’s discharges) and agricultural waste discharged into the MS4, and not excluding other materials which the city administrator, or his/her representative, or federal or state regulatory agencies may deem appropriate to be included.

*Private*” means that property or facilities owned by individuals, corporations, and other organizations and not by a city, county, state, or federal government agency.

*Receiving water*” means those creeks, streams, lakes, sinkholes, and other bodies of water into which surface waters are directed, either naturally in manmade ditches, pipes, or open systems.

*“Reclaimed Water”* means water that has received at least advanced secondary treatment and basic disinfection and is reused after flowing out of a wastewater treatment facility.

*“Reuse”* means the deliberate application of reclaimed water, in compliance with Florida Department of Environmental Protection and/or St. Johns River Water Management District rules for a beneficial purpose.

*“Runoff”* means the surface flow of water which results from, and occurs following a rainfall event.

*“Service area”* means the corporate limits of the City of Longwood.

*“Single-family residential properties”* shall include all single-family detached housing units. Attached single-family dwellings served by individual water meters shall also be considered under this category. All other residential property shall be classified as “multifamily”.

*“Significant Construction Activities”* means construction activities which result in the disturbance of one (1) acre or more of total land area.

*Site mitigation”* means all private facilities constructed on a parcel of land which provide for the abatement of stormwater to amounts equivalent to vacant property or standards prescribed by the city.

*“Significant redevelopment”* means the alteration of an existing development which results in the increase in the discharge of a stormwater facility beyond its previously designed and constructed capacity, or increased pollution or changed points of discharge except emergency repairs.

*“Spoil”* means illicit discharge.

*“Stormwater”* means surface runoff and the discharge of runoff water resulting from rainfall.

“*Stormwater management fee*” means the stormwater management utility fee enacted herein which is billed on the basis of equivalent drainage units. The fee shall include the base rate and contribution rate.

“*Stormwater management plan*” shall mean a plan for receiving, handling, transporting, and treating storm and surface waters within the city as adopted by the city commission.

“*Stormwater management system*” means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from the system. The stormwater management system includes all natural and manmade elements used to convey stormwater from the first point of impact with the surface of the earth to a suitable receding water or location internal or external to the boundaries of the city. The stormwater management system includes all pipes, channels, streams, ditches, wetlands, sinkholes, detention/retention basins, ponds, and other stormwater conveyance and treatment facilities whether public or private. Regardless of whether or not the city shall have recorded rights-of-way or easements, it is presumed that the city has a prescriptive right of access to all stormwater management facilities for operation, maintenance, rehabilitation, or replacement.

“*Stormwater utility evaluation*” means a detailed engineering and financial responsibility analysis of stormwater management plan costs and financial responsibility for all fee payers.

“*Vacant*” means any piece or parcel of land that is without any building, structure, appurtenance, or improvements.

“*Waters of the United States*” means surface and ground waters as defined by Article 40 Section 122.2 of the Code of Federal Regulations.

**Sec. 24-4 Utility established**

There is hereby created and established in the city a stormwater management utility in accordance with Section 403.0893, Florida Statutes. This stormwater management utility shall be responsible for the city’s stormwater management system and shall have equal status with other utility services provided by the city.

**Sec. 24-5 Duties and powers of the stormwater management utility**

The stormwater management utility shall have authority over all the drainage from all properties within the city and shall carry out the following functions:

- 1) Preparation of plans for improvements and betterments to the stormwater management system.
- (2) Construction of improvements and betterments to the stormwater management system.
- (3) The promulgation of regulations for the use of the stormwater management system including provisions for the enforcement of said regulations.
- (4) Review and approval of all new development permits within the city for compliance with stormwater management regulations included in the present City Code or amendments later adopted.
- (5) Performance of routine maintenance and minor improvement to the stormwater management system.

(6) Recommendation of charges for connection to and use of the stormwater management system.

(7) Evaluation of water quality concerns for discharges to the stormwater management system.

(8) Performance of all normal utility functions relating to construction, operation, and maintenance of the city’s stormwater management system.

**Sec. 24-6 Stormwater utility fees**

(a) *Schedule of stormwater utility fees.* The stormwater management utility is empowered by this article to recommend charges for the use and discharge to the city’s stormwater management system. Such charges shall be based on the cost within the city of providing stormwater management services to all properties receiving different classes of service. The city commission shall adopt and revise, from time to time, a schedule of stormwater utility fees for stormwater management services to cover funding requirements of utility operations.

(b) *Rates for stormwater management service.* There is levied against all feepayers for all real property in the city which contributes stormwater management system a monthly stormwater utility fee in accordance with the following definitions, methodology, and schedule:

- (1) *Stormwater utility fees.*
  - a. Single family property stormwater utility fee, per month per unit.....\$3.00
  - b. Multifamily property stormwater utility fee, per month per unit.....\$3.00
  - c. Nonresidential/commercial property stormwater utility fee:
    - Per EDU per month (if property has mitigation).....\$1.00

Minimum charge per month.....	\$1.00
Per EDU month (if property has no mitigation).....	\$3.29
Minimum charge per month.....	\$3.29

- d. Vacant property will be assessed a stormwater utility fee, as follows:
  - 1. Vacant residential platted property: \$1.05/month or \$6.30 semiannually per lot.
  - 2. All other vacant property: \$1.05/month or \$6.30/ semiannually for every 8,500 sq. ft. or fraction thereof.

The stormwater utility fees shall become effective upon passage.

(2) *Stormwater management systems inspection fee.* The city shall charge a fee of fifty dollars (\$50.00) for each inspection of completed stormwater management systems which were approved for construction by the city.

(3) *Billing of stormwater utility and stormwater management systems inspection fees.* Stormwater utility fees and stormwater management system inspection fees imposed by this article shall be billed in conjunction with the monthly utility bill (for nonvacant properties) issued by the city’s utility billing section. Such fees shall be due and payable at the same time and in the same manner and subject to the same penalties as other utility fees.

Stormwater utility fees for vacant property shall be billed separately, semi-annually, on September 1 and March 1.

Any charge due hereunder which is not paid when due shall bear all approved monthly service charges as provided for elsewhere by ordinance and may be recovered in an action at law by the city. The feepayer shall be responsible for all costs of collection to include reasonable attorney’s fees, whether or not the suit is necessary. In addition to any other remedies or penalties provided

by this ordinance of the city, failure of any user of city utilities within the City of Longwood to pay said charges promptly when due shall subject such user to discontinuance of utility service and the city administrator is hereby empowered and directed to enforce this provision as to any and all delinquent users.

The utility fee and inspection fee hereinabove prescribed shall constitute a debt to the city for which the owner, tenant, and/or occupant shall be jointly and severally liable. The records of the city shall be kept open for inspection by the owner, tenant, and occupant and it shall be the responsibility of an owner, tenant, and occupant to ascertain that the prescribed fee or fees are being paid.

(c) *Delinquent charges; liens.* The city shall have a lien upon the property for which the stormwater utility fee is assessed for any and all delinquent or unpaid stormwater management utility fees. Enforcement and foreclosure of said lien(s) shall be as provided by law. The city shall be entitled to collect reasonable attorney's fees from any feepayer, customer or property owner for services rendered by the city's attorney in the collection of such charges or in the institution and prosecution of any foreclosure proceedings.

(d) *Stormwater utility fee appeal process.* Any feepayer who feels that the stormwater utility fee for his property has been assigned or computed incorrectly may petition in writing to the city administrator, or the city administrator's designee, for review of said charges. If the property and its use is not specified on the applicable fee schedule, the city administrator shall use the fee applicable to the most nearly comparable type of land use on the fee schedule. If the feepayer questions the computation of the stormwater utility fee, then the feepayer shall prepare and submit to the city administrator, or designee, an independent fee calculation for the property. The independent fee calculation study shall follow the prescribed methodologies and formats

established by this article and any regulations promulgated hereunder. Independent fee calculations studies shall be prepared and presented by professionals qualified in their respective fields. The study shall show the basis upon which the independent fee calculation was made, including but not limited to surveys, showing the impervious areas, onsite stormwater retention and stormwater detention areas and internal onsite stormwater management systems, and engineering studies documenting stormwater runoff and proposed credits attributable to the property. The city administrator or designee shall consider the documentation submitted by the feepayer but is not required to accept such documentation which he or she shall reasonably deem to be inaccurate, inapplicable, or not reliable and may, in the alternative, require the feepayer to submit additional or different documentation for consideration. If any acceptable independent fee calculation study is not presented, the feepayer shall pay the stormwater utility fees based upon the schedules set forth in this article.

(1) If the feepayer is not satisfied with the determination by the city administrator or designee, the feepayer, by filing a written request with the city administrator within ten (10) calendar days of the city administrator's determination, may request to be heard by the city commission.

(2) Any adjustment to the originally determined area shall be retroactive to commencement of the charges and fees.

**Sec. 24-7 Stormwater management fund**

(a) A stormwater management fund is hereby established into which all revenues from user fees, connection charges, grants, or other funding sources of the stormwater management utility shall be deposited and from which all expenditures related to the city's stormwater management

utility shall be paid. Accounting and reporting procedures shall be consistent with state law and reported to the city commission by the city administrator at least annually.

(b) Expenditures for activities that are not related to the city's stormwater management utility shall not be permitted from the fund except for a prorated charge for general city government services such as accounting, data processing and management as is in effect for other city utility funds or common utility expenses accounted for under one (1) utility system.

(c) To the extent that stormwater management fees collected are insufficient to operate or construct needed stormwater systems, the cost of some may be paid from such city funds as determined by the city commission. The city commission may order the reimbursement of such funds if additional fees are thereafter collected.

## **ARTICLE II. REGULATION AND MAINTENANCE OF THE STORMWATER SYSTEM**

### **Sec. 24-8. Findings.**

It is hereby found, determined and declared as follows:

(1) The contribution of pollutants through discharges from storm sewer systems has a significant impact on receiving waters in the city.

(2) Improperly treated discharges from industrial or commercial activities, interconnected municipal separate storm sewer systems, illicit discharges and discharges from spilling, dumping or disposal of material other than stormwater to the municipal storm sewer system of the city adversely affect the quality of water receiving such discharges.

(3) The United States Environmental Protection Agency, pursuant to Title 40, Section 122.26 of the Code of Federal Regulations, has mandated the city through the issuance of National Pollution Discharge Elimination System (NPDES) permit to control discharges to the municipal storm sewer system and regulate and maintain a stormwater system in order to control the quality of discharges from the city's storm sewer system to waters of the United States.

**Sec. 24-9. Discharges to the municipal separate storm sewer system.**

(a) No discharge to the municipal separate storm sewer system ("MS4") shall be permitted to impair the operation of the MS4 or contribute to the failure of the MS4 to meet any local, state or federal requirements, including, but not limited to, NPDES Permits.

(b) Stormwater discharges from significant construction activities shall be treated or managed on site in accordance with appropriate federal, state or local permits and regulations, prior to discharge to the City's MS4. Erosion, sediment and pollution controls for the construction site shall be properly implemented, maintained and operated according to a pollution prevention plan required by an NPDES permit for the discharge of stormwater from construction activities, or according to a state permit issued by the Florida Department of Environmental Protection or St. Johns River Water Management District.

(c) Construction activity which is not defined as significant is still characterized an illicit connection or illicit discharge if the activity causes an impairment of the operation of the MS4 or contributes to the failure of the MS4 to meet any local, state or federal requirements, including, but not limited to, NPDES Permits.

(d) The owners or operators of industrial facilities, commercial entities and construction sites which discharge stormwater to the city's MS4 shall provide prior written notification to the city of the discharge and shall have received prior approval of the discharge from the city.

**Sec. 24-10. Control of pollutant contributions from interconnected municipal storm sewer systems.**

The discharge of stormwater between interconnected state, county, city or other MS4's shall not, and shall not be permitted to, cause the city's MS4 to be in violation of the provisions of an NPDES Permit. Owners of any portion of the Seminole County interconnected MS4 shall be responsible for controlling the quality and quantity of discharge of stormwater to the city's MS4.

**Sec. 24-11. Prohibition of illicit discharges and illicit connections.**

- (a) Illicit discharges and illicit connections to the city's MS4 are prohibited.
- (b) Failure to report a connection from industrial activities, commercial entities or construction activities to the city's MS4 or to waters of the United States constitutes an illicit connection.
- (c) Failure to report to the city a discharge from industrial activities, commercial entities or construction activities to the city's MS4 or to waters of the United States constitutes an illicit discharge.
- (d) Any discharge to the city's MS4 or to waters of the United States which is in violation of federal, state or local permits or regulations constitutes an illicit discharge.

(e) Persons responsible for illicit discharges or illicit connections shall immediately cease the illicit discharge or illicit connection, and obtain appropriate approvals from applicable regulatory agencies prior to resuming the discharge or connection.

**Sec. 24-12. Prohibition of discharges of polluting matter into storm systems.**

(a) It shall be unlawful for any person to drain, deposit, place or otherwise discharge pollutants into any stormwater system within the city, or to cause or permit to be drained, deposited, placed or otherwise discharged into such stormwater systems any organic or inorganic matter which causes pollution, pursuant to the water standards established by all applicable regulatory agencies. Polluting matter includes, but is not limited to, the following:

- (1) Petroleum products, including, but not limited to oil, gasoline and grease;
- (2) Solid waste (as defined in Chapter 9, Section 102 of the Longwood City Code);
- (3) Paints;
- (4) Steam cleaning waste;
- (5) Pesticides, herbicides or fertilizers;
- (6) Degreasers, solvents;
- (7) Sanitary sewage;
- (8) Chemically treated cooling water;
- (9) Antifreeze and other automotive products;
- (10) Lawn clippings, leaves, branches, etc.;
- (11) Animal carcasses;
- (12) Recreation vehicle gray or black waters;

- (13) Dyes;
- (14) Construction materials;
- (15) Any liquids in quantity or quality which are capable of causing a violation of the city's NPDES stormwater permit; and
- (16) Solids in such quantities or of such size capable of causing interference or obstruction to the flow in the city's stormwater system.

(b) It shall be unlawful to wash any public or private streets, buildings, sidewalks or parking areas, unless all visible debris and sediments have been removed prior to washing. If the removal of the debris and sediments is not feasible (as determined by the city administrator), then the street, building, etc., may only be washed with the city administrator's written approval, which may include requirements to clean the affected drainage pipelines or provide treatment of washwater to prevent downstream pollution.

**Sec. 24-13. Exemptions.**

The following activities shall not be considered an illicit discharge or illicit connection unless such activities cause, or significantly contribute to, the impairment of the use of the city's MS4 or the violation of the conditions of the city's NPDES Permit:

- (1) Discharges from:
  - a) Water line flushing;
  - b) Flushing of reclaimed water lines;
  - c) Street cleaning;
  - d) Sidewalk/building power washing;
  - e) Construction dust control;

- f) Landscape irrigation;
- g) Diverted stream flows or lake waters;
- h) Foundation, footing and roof drains;
- i) Swimming pool discharges;
- j) Uncontaminated ground water infiltration (as defined by Article 40 Section 35.2005(20) of the Code of Federal Regulations);
- k) Discharges from potable water sources;
- l) Air conditioning condensate or cooling water;
- m) Irrigation water;
- n) Springs;
- o) Lawn watering;
- p) Individual residential car washing;
- q) Flows from riparian habitat and wetlands; and
- r) Discharges or flow from emergency fire fighting activities and emergency response activities done in accordance with adopted spoil response/action plan.

(2) Discharges for which all appropriate federal, state and local permits have been obtained and which are in compliance with the conditions of said permits.

**Sec. 24-14. Inspection and monitoring for compliance.**

City personnel shall be granted access for inspection of facilities discharging or suspected of discharging to the city's MS4 or waters of the United States in order to effectuate the provisions of this ordinance and to investigate violations or potential violations of any of the terms herein. All structures and processes which allow discharges to the city's MS4, as well as records concerning them, shall be made accessible to the city's personnel for this purpose.

**Sec. 24-15. Maintenance of the stormwater management system.**

(a) Structural controls, BMP's, or other elements of the stormwater management system (as defined by Section 24-3 of this chapter) used for controlling the discharge of stormwater to the city's MS4 or to waters of the United States shall be operated and maintained by the property owner so as to function in accordance with permitted design and performance criteria and in compliance with federal, state and local permit conditions and regulations.

(b) The city administrator may determine that an element of the stormwater system is not in compliance with permitted design standards if the condition of the element prevents it from performing its intended use to collect, convey, store, absorb, inhibit, treat, or reuse water. Such conditions include but are not limited to:

- (1) Overgrown vegetation
- (2) Sediment that blocks inlets or outlets
- (3) Debris blockage
- (4) Sediment filling of swales, ditches, or ponds
- (5) Manmade obstructions

(c) The owner of any property that contains, in whole or in part, said elements of the stormwater management system which are not in accordance with the permitted design standards shall take corrective actions to bring the elements or parts of elements which lie on his or her property into compliance with all permitted design standards. Noncompliance shall constitute a violation enforceable under Section 24-17 of this article.

**Sec. 24-16 Prohibition of unauthorized modifications to stormwater systems and site grading.**

(a) It shall be unlawful for any person to modify the original site grade of any property within the city for residential, industrial, or commercial use without approval pursuant to the Longwood Development Code.

(b) It shall be unlawful for any person to modify, redirect, or otherwise alter the operation of any element of the stormwater management system without the city administrator's written approval. In accordance with Section 24-3 of this chapter, elements of the stormwater management system include all stormwater conveyance and treatment facilities including, but not limited to:

- 1) Swales
- 2) Outfalls
- 3) Culverts
- 4) Detention/ retention ponds
- 5) Pipes
- 6) Streams
- 7) Wetlands

**Sec. 24-17. Administration, enforcement, penalties and legal proceedings.**

(a) Chapter 24 shall be administered by the city administrator.

(b) All persons in violation of Chapter 24 shall proceed to remedy such violations according to the schedule prescribed by the city administrator. All persons in violation shall, in addition to all other required remedial actions, upon detection and/or written notification by the city, provide a

written response to the city administrator outlining the temporary and permanent measures that will be taken to correct the violation and a proposed schedule for completion of the corrective measures within five (5) business days of receiving notification of the violation. All such proposals for corrective action are subject to the approval of the city administrator.

(c) The city administrator is authorized to issue cease and desist orders in the form of written official notices hand delivered or sent by registered mail to the person(s) believed to be responsible for the violation and/or the owner of the property from or on which the violation is believed to be occurring. Specific activities and operations may be ordered to cease based upon the following conditions:

1) In a situation that may have a serious effect on the health, safety or welfare of the public or the environment, including the quality of stormwater in the city's MS4; or

2) When irreversible or irreparable harm may result, in the reasonable opinion of the city administrator, and immediate cessation of the activity is necessary to protect the quality of the stormwater in the city's MS4, the public or the environment.

(d) Any person who violates this article and/or fails to comply with the requirements of any provision of this article shall, without limitation and in addition to the city's legal recourse, be subject to prosecution before the code enforcement board of the City of Longwood, Florida, pursuant to the Longwood Development Code. Each day of violation shall constitute a separate violation.

(e) In addition to any fines which may be imposed by the code enforcement board, persons responsible for violation of this article shall be liable for all costs incurred by the city in sampling, analyzing and/or monitoring the discharge, together with all state and/or federal fines

imposed as a result of the discharge and cost of removing, remedying or properly treating the discharge.

(f) Should any person responsible for a violation of this article fail to take the remedial action as required by the city, the city may, but is not required to take such remedial action, and all costs incurred by the city shall be the responsibility of the person or persons responsible for the violation, and the city may record a lien against the personal and/or real property of the violators to recover said costs and to collect all fines and penalties imposed.

(g) In addition to the remedies provided herein, the city may make application to a court of competent jurisdiction for injunctive relief to enjoin or restrain any person from violating or continuing to violate the provisions of this article. In addition, the city may also seek entry of a court order requiring restoration and mitigation of any impacted facilities, land or water, and may request any other appropriate legal remedy, including reimbursement of court costs. The city shall be entitled to an award of attorney's fees in prosecuting such actions, together with all attorney's fees and costs on appeal.

(h) Any person who willfully or with criminal negligence violates any of the provisions of this article shall, upon conviction thereof, be punished by a fine not to exceed \$1,000.00 or by imprisonment not to exceed one year, or by both such fine and imprisonment. Additionally, any person who willfully continues to violate the provisions of this article after receiving written notification of said violation from the city administrator or who fails to comply with the corrective actions prescribed by the city administrator shall be liable to the city for a civil penalty of up to

\$10,000.00 per day, and in no event less than \$1,000.00 per day plus damages, for as long as the violation continues, together with attorney's fees, court costs and other expenses incurred by the

city associated with the enforcement activities, including, but not limited to, sampling and monitoring expenses.

(i) The city may elect to take any or all of the above remedies concurrently, and the pursuit of one shall not preclude the pursuit of another.

(j) Any fines or other funds received as a result of enforcement action under this article and which are not used for the specific purposes enumerated herein shall be deposited into the stormwater management fund, established under this Chapter 24 of the Longwood City Code.

**SECTION TWO: CONFLICTS.** Any and all ordinances or parts of ordinances in conflict herewith are and the same hereby repealed.

**SECTION THREE: SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

**SECTION FOUR: EFFECTIVE DATE.** This ordinance shall become effective immediately upon passage and will expire on October 1, 2008, unless readopted by the city commission.