
ORDINANCE 2011-____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF GARDEN CITY, GEORGIA, AS AMENDED, SO AS TO ESTABLISH MINIMUM REQUIREMENTS AND PROCEDURES TO REGULATE THE ADVERSE EFFECTS OF INCREASED STORM WATER RUNOFF FROM DEVELOPMENTS IN CERTAIN AREAS OF GARDEN CITY; TO REQUIRE THE SUBMISSION OF STORM WATER MANAGEMENT PLANS, INSPECTION AND MAINTENANCE AGREEMENTS, PERMIT APPLICATIONS, AND PERFORMANCE BONDS, IN RETURN FOR THE ISSUANCE OF PERMITS FOR CERTAIN DEVELOPMENTS WITHIN THE CITY; TO ESTABLISH PERMIT FEES; TO PROVIDE FOR STORMWATER MANAGEMENT DESIGN SUBMITTAL AND APPROVAL PROCEDURES; TO REQUIRE THE POSTING OF MAINTENANCE BONDS FOR A TWO YEAR PERIOD AFTER THE COMPLETION OF CONSTRUCTION OF STORMWATER MAINTENANCE FACILITIES; TO PROVIDE FOR THE CITY INSPECTION OF STORM WATER MAINTENANCE FACILITIES; TO PROVIDE EXEMPTIONS FROM THE PROVISIONS OF THE ORDINANCE; TO ALLOW FOR ORDINANCE COMPLIANCE THROUGH OFF-SITE STORMWATER MANAGEMENT PRACTICES; TO PROVIDE A MECHANISM FOR THE ENFORCEMENT OF THE ORDINANCE; TO PROVIDE PENALTIES FOR VIOLATIONS OF THE REQUIREMENTS AND PROCEDURES IN THE ORDINANCE; TO PROVIDE AN APPEAL PROCESS FOR ENFORCEMENT DECISIONS ISSUED PURSUANT TO THE ORDINANCE; TO PROVIDE DEFINITIONS FOR CERTAIN TERMS AND PROVISIONS USED IN THE ORDINANCE; TO PROVIDE FOR A STORMWATER MANAGEMENT LOCAL DESIGN MANUAL TO AID IN THE IMPLEMENTATION OF THE ORDINANCE; TO REPEAL ORDINANCES IN CONFLICT THEREWITH; TO PROVIDE AN EFFECT DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED by the Mayor and Council of the City of Garden City, Georgia, and it is hereby ordained as follows:

Section 1. That Article V, Division One (1), of Chapter 30 of the Code of Ordinances of Garden City, Georgia, as amended, be and it is hereby amended by deleting said Division in its entirety and replacing it with the following:

ARTICLE V. STORMWATER MANAGEMENT

DIVISION 1. Generally

Section 30-230 Findings of Fact

It is hereby determined that:

- (a) The land development process significantly alters the hydrologic response of development sites, increasing stormwater runoff rates, volumes and pollutant loads,

which could increase incidents of flooding thereby endangering infrastructure, public and private property and human life;

- (b) The land development process significantly alters the hydrologic response of development sites, increasing stormwater runoff rates, volumes and pollutant loads, and alters water levels and fluctuations and increases pollutant transport and deposition in wetlands, rivers and streams;
- (c) The land development process significantly alters the hydrologic response of development sites, increasing stormwater runoff rates, volumes and pollutant loads, and alters salinity concentrations and fluctuations and increases primary productivity and pollutant transport and deposition in estuaries;
- (d) The land development process significantly alters the hydrologic response of development sites, increasing stormwater runoff rates, volumes and pollutant loads, and increases bacteria transport and deposition in near coastal waters, which leads to beach contamination and poses a serious threat to human health;
- (e) The land development process significantly alters the hydrologic response of development sites, increasing stormwater runoff rates and volumes, and decreases the amount of rainfall that is available to recharge shallow groundwater aquifers;
- (f) The negative impacts of the land development process on local aquatic resources can adversely affect the health, safety and general welfare of the general public as well as the quality of life of its citizens;
- (g) Every residential and non-residential parcel of real property, both public and private, benefits from the implementation of storm water management regulations as well as proper maintenance and operation of the municipal storm sewer system (MS4);
- (h) The negative impacts of the land development process can be controlled and minimized through the management of stormwater runoff rates, volumes and pollutant loads;
- (i) Communities located within Georgia's Coastal Nonpoint Source Management Area and Area of Special Interest are required to comply with a number of state and federal regulations that require the adverse impacts of the land development process to be controlled and minimized;
- (j) Therefore, the City of Garden City has determined that it is in the public interest to control and minimize the adverse impacts of the land development process and has established this set of local stormwater management regulations to control post-construction stormwater runoff rates, volumes and pollutant loads on development and redevelopment sites.

Section 30-231 Purpose and Intent

The purpose of this ordinance is to protect and maintain the integrity of local aquatic resources and, consequently, the health, safety and welfare of the general public, by establishing local stormwater management regulations that control and minimize the adverse impacts of the land development process. The ordinance seeks to achieve these goals by enacting provisions that:

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- (a) Protect, maintain, and enhance the short-term and long-term public health, safety, and general welfare. This objective will be achieved by providing for regulation and management of a municipal storm sewer system, including public and private facilities in the city's service area.
 - (b) Comply with the Georgia Department of Natural Resources (DNR) and federal Environmental Protection Agency (EPA) stormwater regulations developed pursuant to the Clean Water Act. These requirements include:
 - (1) Control the discharge of stormwater and contribution of pollutants to the municipal storm sewer system (MS4) by stormwater discharges associated with impervious area and the quality of stormwater discharged from sites with impervious area;
 - (2) Prohibit illicit connections and/or discharges to the MS4;
 - (3) Control discharge to municipal storm sewers of spills, dumping or disposal of materials other than stormwater; and
 - (4) Control, through intergovernmental agreements, contribution of pollutants from one municipal/county system to another.
 - (c) Establish minimum requirements and procedures to regulate the adverse effects of increased stormwater runoff and development in flood hazard areas.
 - (d) Establishing decision-making processes that can be applied during the site planning and design process to help protect the integrity of local aquatic resources;
 - (e) Establishing post-construction stormwater management and site planning and design criteria to help protect natural resources from the direct impacts of the land development process and preserve existing hydrologic conditions on development sites;
 - (f) Establishing post-construction stormwater management and site planning and design criteria to help reduce flooding, channel erosion and pollutant transport and deposition in local aquatic resources;
 - (g) Establishing design guidelines for green infrastructure and stormwater management practices that can be used to meet the post-construction stormwater management and site planning and design criteria;
 - (h) Encouraging that green infrastructure practices, which include better site planning techniques, better site design techniques and low impact development practices, be used to the maximum extent practical on development sites;
 - (i) Establishing provisions for the long-term inspection and maintenance of green infrastructure and stormwater management practices to ensure that they continue to function as designed and pose no threat to public safety; and,
 - (j) Establishing administrative procedures for the submittal, review, approval and disapproval of stormwater management plans and for the inspection of approved development projects.

Section 30-232 Applicability and Exemptions

- (a) This ordinance shall be applied to all land disturbing activities, unless exempt pursuant to Section 30-232(b) of this ordinance. The stormwater management regulations presented within shall be applied to any new development or redevelopment activity that meets one or more of the following criteria:
- (1) New development that involves the creation of 5,000 square feet or more of impervious cover or that involves other land disturbing activities of one acre or more;
 - (2) Redevelopment that involves the creation, addition or replacement of 5,000 square feet or more of impervious cover or that involves other land disturbing activities of one acre or more.
 - (3) New development or redevelopment, regardless of size, that is part of a larger common plan of development, even though multiple, separate and distinct land disturbing activities may take place at different times and on different schedules.
 - (4) New development or redevelopment, regardless of size, that involves the creation or modification of a stormwater hotspot, as defined herein as well as in the City's Code of Ordinances, Stormwater Utility Credit Manual, the Georgia Stormwater Management Manual (GSMM) and other related guidance.
- (b) The following activities are exempt from this ordinance:
- (1) New development or redevelopment that involves the creation, addition or replacement of less than 5,000 square feet of impervious cover and that involves less than one acre of other land disturbing activities.
 - (2) New development or redevelopment activities on individual residential lots that are not part of a larger common plan of development and do not meet any of the applicability criteria listed above.
 - (3) Additions or modifications to existing single-family homes and duplex residential units that do not meet any of the applicability criteria listed above.
 - (4) Development projects that are undertaken exclusively for agricultural or silvicultural purposes within areas zoned for agricultural or silvicultural land use.
 - (5) Maintenance and repairs of any green infrastructure or stormwater management practices deemed necessary by the City Manager (or his designee).
 - (6) Any part of a land development project that was approved by the Garden City Mayor and City Council prior to the adoption of this ordinance provided that it meets the stipulations outlined in Section 30-232(c) of this ordinance.
 - (7) Redevelopment activities that involve the replacement of impervious cover when the original impervious cover was wholly or partially lost due to natural disaster or other acts of God.

(c) Phased Developments with Existing Stormwater Masterplans

For phased development projects, a stormwater masterplan shall be prepared to conceptually indicate how the minimum requirements of the City's previous stormwater management ordinance were to have been met. The stormwater masterplan shall consolidate detention facilities to the maximum extent practical. The existence of a stormwater masterplan does not necessarily preclude compliance with the requirements of this ordinance for each subsequent phase as it is being developed. However, the City Manager or his designee will favorably consider the existence of a site-specific stormwater masterplan that is substantially compliant with Section 30-239(b) of this ordinance when evaluating the applicability of this ordinance to subsequent phases of development. The City Manager or his designee may require that additional requirements be incorporated into the subsequent phases of development to protect the health, safety and welfare of the general public as well as to ensure compliance with applicable federal, state and local regulations.

Section 30-233 Scope of Responsibility

- (a) The provisions of this ordinance shall apply throughout the City and to drainage systems maintained by intergovernmental agreement between the City and the county and/or other municipal jurisdictions.
- (b) The City Manager or his designee shall be responsible for the administration, implementation, and enforcement of the provisions of this ordinance.
- (c) The City Manager or his designee shall be responsible for the conservation, management, extension and improvement of the municipal storm sewer system, including activities necessary to control stormwater runoff and activities necessary to carry out stormwater management programs included in the City's NPDES Phase I Municipal Separate Storm Sewer System (MS4) permit.
- (d) The application of this ordinance and the provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other local requirements authorized by state statute. Other stormwater project improvements and/or environmental requirements, as defined under state or federal law, may be required.

Section 30-234 Responsibility of the City

The City Planning and Economic Development Department (the Department) in consultation with the City Public Works Department and the Stormwater Utility will:

- (a) Administer, coordinate and oversee acquisition, design, and construction of municipal stormwater facilities and conveyances;
- (b) Establish or oversee establishment and implementation of development standards and guidelines for controlling stormwater runoff;
- (c) Determine the manner in which stormwater facilities should be operated;

- (d) Observe the installation and the ongoing operation of private systems which discharge to the City Municipal Separate Storm Sewer System (MS4);
- (e) Advise City Council on issues related to stormwater;
- (f) Manage facilities and properties controlled by the City and prescribe how they are used by others;
- (g) Require that new, increased, or significantly changed stormwater contributions comply with the terms of this ordinance and any local design manual (LDM); and
- (h) Develop programs or procedures to control the discharge of pollutants into the municipal storm sewer system (MS4).

Section 30-235 Compatibility with Other Regulations

This ordinance is not intended to interfere with, modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 30-236 Severability

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

Section 30-237 Stormwater Management Local Design Manual (LDM)

Garden City will utilize the information presented in the latest edition of the Coastal Stormwater Supplement (CSS) to the GSMM, and the Garden City Stormwater Management Local Design Manual (LDM), to assist with implementation of this ordinance. The LDM shall serve as a companion document to the CSS and the GSMM. The LDM shall endeavor to accomplish the following: (1) clarify discrepancies between the CSS and any Section of the City's Stormwater Management Ordinance and other related Development Regulations; (2) provide guidance to supplement information contained in the City's Stormwater Management Ordinance and other related Development Regulations; (3) establish minimum stormwater management related design standards and criteria; and (4) further describe the stormwater management design preparation, submittal, review and approval requirements. The criteria within the LDM shall be considered minimum design standards and, in the event of a conflict, supersede design standards set forth in the CSS and/or the GSMM. A copy of the LDM shall be available from the City.

In addition, Garden City encourages the application of the practices and concepts contained in the Green Growth Guidelines to meet the goals and objectives of the Garden City Post Construction Stormwater Management Ordinance. A copy of the Green Growth Guidelines can

be viewed and downloaded from the following link for use in site design activities (<http://crd.dnr.state.ga.us/content/displaycontent.asp?txtDocument=969>).

Garden City also encourages the use and application of the “*Georgia-CSS-Site-Planning-Design-Worksheet-Final-Apr-09*” spreadsheet tool to evaluate compliance with the CSS design guidelines. A copy of the spreadsheet tool can be obtained from the City or from the following website link (<http://www.mpcnaturalresources.org/water-resources/georgia-storm-water.html>).

These references and assistance tools may be updated and expanded periodically, based on additional information obtained through scientific research, performance monitoring and local experience.

Section 30-238 Definitions

Accidental Discharge shall be defined as a discharge prohibited by this article into the municipal storm sewer system which occurs by chance and without planning or consideration prior to occurrence.

Appeal Authority shall mean the City Council, one of whose purpose is to review appeals to this article and render decisions and variances.

Applicant shall mean a property owner or agent of a property owner who has submitted an application for a post-construction stormwater management development plan review.

Aquatic Buffer shall mean an area of land located around or near a stream, wetland, or waterbody that has intrinsic value due to the ecological services it provides, including pollutant removal, erosion control and conveyance and temporary storage of flood flows.

Aquatic Resource Protection shall mean measures taken to protect aquatic resources from several negative impacts of the land development process, including complete loss or destruction, stream channel enlargement and increased salinity fluctuations.

Base Flood Elevation (BFE) shall mean the minimum expected water surface elevation identified by the Federal Emergency Management Agency (FEMA) or as determined by the City Manager.

Best Management Practices (BMPs) shall mean a wide range of management procedures, activities, and prohibitions or practices which control the quality and/or quantity of stormwater runoff and which are compatible with the planned land use.

Better Site Design Techniques shall mean site design techniques that can be used during the site planning and design process to minimize land disturbance and the creation of new impervious and disturbed pervious cover. Better site design techniques include reducing clearing and grading limits, reducing roadway lengths and widths and reducing parking lot and building footprints.

Better Site Planning Techniques shall mean site planning techniques that can be used during the site planning and design process to protect valuable aquatic and terrestrial resources from the direct impacts of the land development process. Better site planning techniques include protecting primary and secondary conservation areas.

Building shall mean any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal or property and occupying more than 100 square feet of area.

Channel shall mean a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Clean Water Act shall mean the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.).

Coastal Stormwater Supplement (CSS) shall mean the April 2009 edition of the CSS to the GSMM. This document is a technical design supplement to the GSMM that was developed for coastal Georgia. The CSS addresses stormwater management practices and BMPs that are specific and applicable to coastal stormwater quantity and quality issues.

Cooling Water shall mean water used exclusively as a cooling medium in an appliance, device or apparatus.

Conservation Areas shall mean permanently protected areas of a site that are preserved, in perpetuity, in an undisturbed, natural state.

Conservation Easement shall mean a legal agreement between a land owner and a local, state or federal government agency or land trust that permanently protects conservation areas on the owner's land by limiting the amount and type of development that can take place within them but continues to leave the conservation areas in private ownership.

Conveyance shall mean stormwater features designed for the movement of stormwater through the drainage system, such as concrete or metal pipes, ditches, depressions, swales, etc.

Dedication shall mean the deliberate appropriation of property by its owner for general public use.

Department shall mean the Garden City Planning and Economic Development Department which is primarily responsible for implementation of the provisions of this article.

Detention shall mean the temporary storage of stormwater runoff in a stormwater management practice for the purpose of controlling the peak discharge rates and providing gravitational settling of pollutants.

Detention Facility shall mean a permanent stormwater management facility whose primary purpose is to temporarily store stormwater above the normal groundwater surface elevation and release the stored runoff at controlled rates. Acceptable types may include but are not limited to lagoons, ponds, wetlands, parking areas, and subsurface pipes.

Developer shall mean a person who undertakes a land development project,

Development activity shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, dredging, clearing, grubbing, scraping, grading, filling, paving, excavation or other activities significantly disturbing the soil or vegetation.

Development Project shall mean a new development or redevelopment project.

Development Site shall mean a parcel of land where land disturbing activities have been or will be initiated to complete a land development project.

Director shall mean either the City Manager or his designee.

Discharge shall mean the release of treated or untreated water to the municipal storm sewer system.

Drainage Easement shall mean a legal right granted by a land owner to a grantee allowing the grantee to convey, treat or manage storm water runoff on the private land subject to the drainage easement.

Easement shall mean an acquired legal right for the specific use of land owned by others.

Erosion and Sediment Control Plan shall mean a plan that is designed to minimize and control the accelerated erosion and increased sediment loads that occur at a site during land disturbing activities.

Evapotranspiration shall mean the loss of water to the atmosphere through both evaporation and transpiration, which is the evaporation of water from the aerial parts of plants.

Extended Detention shall mean the temporary storage of stormwater runoff in a stormwater management practice for an extended period of time, typically 24 hours or greater.

Extreme Flood Protection shall mean measures taken to protect downstream properties from dangerous extreme flooding events and help maintain the boundaries of the existing 100-year floodplain.

Fee in Lieu Contribution shall mean a payment of money in place of meeting all or part of the stormwater management criteria required by a post-construction stormwater management ordinance.

Flooding shall mean a volume of storm water runoff that is too great to be confined within the banks of a stream, river or other aquatic resource or the limits of a storm water conveyance feature and that overflows onto adjacent lands.

Flood Hazard Area shall mean those delineated geographical areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) or as determined by the City Manager or his designee.

Georgia Stormwater Management Manual (GSMM) shall mean the latest edition of all volumes of the Georgia Stormwater Management Manual, a technical guidance document governing stormwater management design, construction and long-term maintenance activities in Georgia.

Governing Body shall mean the elected officials of the City Council.

Green Infrastructure Practices shall mean the combination of three complementary, but distinct, groups of natural resource protection and stormwater management practices and techniques,

including better site planning and design techniques and low impact development practices, that are used to protect valuable terrestrial and aquatic resources from the direct impacts of the land development process, maintain pre-development site hydrology and reduce post-construction stormwater runoff rates, volumes and pollutant loads.

Hydrologic Soil Group (HSG) shall mean a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from Group A soils, with high permeability and little runoff produced, to Group D soils, which have low permeability rates and produce much more runoff.

Illicit Connection and Discharge shall mean a connection to a municipal storm sewer system which results in an unauthorized discharge that is not composed entirely of stormwater runoff except discharges pursuant to a National Pollutant Discharge Elimination System (NPDES) permit (other than the NPDES permit for discharges from the municipal storm sewer).

Impaired Waters shall mean those streams, rivers, lakes, estuaries and other water bodies that currently do not meet their designated use classification and associated water quality standards under the Clean Water Act.

Impervious Cover shall mean a surface composed of any material that greatly impedes or prevents the natural infiltration of water into the underlying native soils. Impervious surfaces include, but are not limited to, rooftops, buildings, sidewalks, driveways, streets and roads.

Industrial Stormwater Permit shall mean a National Pollutant Discharge Elimination System (NPDES) permit issued to an industry or group of industries that regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infill Development shall mean land development that occurs within designated areas based on local land use, watershed and/or utility plans where the surrounding area is generally developed, and where the site or area is either vacant or has previously been used for another purpose.

Infiltration shall mean the process of allowing stormwater runoff to percolate into the underlying native soils.

Infiltration Practice shall mean a green infrastructure or stormwater management practice designed to provide infiltration of stormwater runoff into the underlying native soils. These stormwater management practices may be above or below grade.

Inspection and Maintenance Plan Agreement shall mean a written agreement and plan providing for the long-term inspection and maintenance of all green infrastructure practices, stormwater management practices, stormwater conveyance features and stormwater drain infrastructure on a development site.

Jurisdictional Wetland shall mean an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic

vegetation, and are those waters of the United States that are under the jurisdictional of the Army Corps of Engineers (ACOE).

Land Development shall mean any project undertaken to change or improve a site that involves one or more land disturbing activities.

Land Disturbing Activity (LDA) shall mean any activity that changes stormwater runoff rates, volumes and pollutant loads on a site. These activities include, but are not limited to, the grading, digging, cutting, scraping, or excavating of soil, the placement of fill materials, paving, construction, substantial removal of vegetation and any activity that bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

Land Owner shall mean the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Low Impact Development (LID) Practice shall mean small-scale stormwater management practices that are used to disconnect impervious and disturbed pervious surfaces from the storm drain system and reduce post-construction stormwater runoff rates, volumes and pollutant loads. Low impact development practices include soil restoration, site reforestation/revegetation, green roofs, vegetated filter strips and rain gardens.

Maintenance shall mean any action necessary to preserve stormwater management facilities in proper working condition, in order to serve the intended purpose set forth in this ordinance or to prevent structural failure of such facilities.

Municipal Separate Storm Sewer System (MS4) shall mean a conveyance or system of conveyances (including roads with drainage systems, highways, rights-of-way, municipal streets, catch basins, curbs, gutters, ditches, canals, manmade channels, storm drains detention ponds, other stormwater facilities) which is:

- (1) Owned or maintained by the City;
- (2) Designed or used for collecting or conveying stormwater;
- (3) Not a combined sewer; and
- (4) Not part of a publicly owned treatment works (POTW).

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit shall mean a permit issued by the United State Environmental Protection Agency (USEPA), or by a State under authority delegated pursuant to 33 USC § 1342(b), that authorizes the discharge of pollutants to Waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

New Development shall mean a land development project undertaken on a previously undeveloped or unimproved site.

Nonpoint Source Pollution shall mean pollution from any source other than from a discernible, confined and discrete conveyance, such as a wastewater treatment plant or industrial discharge.

Sources of nonpoint source pollution include, but are not limited to, agricultural, silvicultural, mining and construction activities, subsurface disposal and urban stormwater runoff.

Nonstructural Stormwater Management Practice shall mean any natural resource protection or stormwater management practice or technique that uses natural processes and natural systems to intercept, convey, treat and/or manage stormwater runoff. Nonstructural stormwater management practices include, but are not limited to, protecting primary and secondary conservation areas, reducing clearing and grading limits, reducing roadway lengths and widths, reducing parking lot and building footprints, soil restoration, site reforestation/revegetation, green roofs, vegetated filter strips and rain gardens.

Off-Site Stormwater Management Practice shall mean a green infrastructure or stormwater management practice located outside the boundaries of a development site.

On-Site Stormwater Management Practice shall mean a green infrastructure or stormwater management practice located within the boundaries of a development site.

Open Tidal Waters shall mean natural bodies of water influenced by daily tide fluctuations that have no downstream manmade flow restrictions.

Overbank Flood Protection shall mean measures taken to protect downstream properties from damaging overbank flooding events.

Owner shall mean the legal or beneficial owner of a piece of land, including, but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm, or corporation in control of the site.

Permanent Stormwater Management Practice shall mean a green infrastructure or stormwater management practice that will be operational after the land disturbing activities are complete and that is designed to become a permanent part of the site for the purposes of managing post-construction stormwater runoff.

Permit shall mean the permit issued by a local development review authority to an applicant, which is required for undertaking any land development project or land disturbing activities, typically referred to as a Land Disturbance Activity (LDA) Permit.

Person shall mean any and all persons, natural or artificial and includes any individual, firm, corporation, government agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

Pollution shall mean the contamination or other alteration of any water's physical, chemical or biological properties, including change in temperature, taste, color, turbidity, or odor of such waters or discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare or to domestic, commercial, industrial,

agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

Post Developed Conditions shall mean the conditions following the completion of the land development activity in terms of topography, vegetation, land use, and rate and direction of stormwater runoff.

Pre-developed Conditions shall mean those land use conditions that exist prior to the initiation of the proposed land development activity in terms of topography, vegetation, land use, and quality, rate, volume, and direction of stormwater runoff.

Post-Development Hydrology shall mean the set of hydrologic conditions that may reasonably be expected to exist on a development site, after the completion of all land disturbing and construction activities.

Pre-Development Hydrology shall mean the set of hydrologic conditions that exist on a development site prior to the commencement of any land disturbing activities (i.e. the wooded undisturbed/undeveloped condition).

Private shall mean property or facilities owned by individuals, corporations, and other organizations and not by City, County, State, or federal government.

Procedure shall mean a procedure adopted by the City, by and through the City Manager or his designee, to implement a regulation or regulations adopted under this ordinance, or to carry out other responsibilities as may be required by this article.

Receiving Stream or Receiving Aquatic Resource shall mean the body of water or conveyance into which stormwater runoff is discharged.

Recharge shall mean the replenishment of groundwater aquifers

Record Drawings shall mean a set of engineering or site drawings that delineate the permitted stormwater management facility as actually constructed.

Redevelopment shall mean a change to previously existing, improved property, including but not limited to the demolition or building of structures, filling, grading, paving, or excavating, but excluding ordinary maintenance activities, remodeling of buildings on the existing footprint, resurfacing of paved areas and exterior changes or improvements that do not materially increase or concentrate stormwater runoff or cause additional nonpoint source pollution.

Regional Stormwater Management Practice shall mean a stormwater management practice designed to control stormwater runoff from multiple properties, where the owners or developers of the individual properties may participate in providing land, financing, design services, construction services and/or maintenance services for the practice.

Regulation shall mean any regulation, rule or requirement adopted by the City pursuant to the requirements of this ordinance.

Responsible Party shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns that is named on a stormwater inspection and maintenance plan agreement as responsible for the long-term operation and maintenance of one or more green infrastructure or stormwater management practices.

Retention Facility shall mean a permanent facility whose primary purpose is to permanently store a given volume of stormwater runoff. Release of the given volume is by infiltration or evaporation.

Sanitary Sewer System shall mean the complete sanitary sewer system of the City which discharges sewage directly or indirectly into the sewage treatment plant, including sanitary sewer pipelines, manholes and flushing inlets and appurtenances to the foregoing, but shall exclude any portion or facilities of the sewage treatment plant.

Site shall mean any lot, plot, parcel or tract of land.

Stop Work Order shall mean an order issued that requires that all land disturbing activity on a site be stopped.

Stormwater shall mean stormwater runoff, snow melt runoff, and surface runoff and drainage.

Stormwater Hotspot shall mean an area where land use or pollution generating activities have the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater runoff. Stormwater hotspots include, but are not limited to, fueling stations (including temporary fueling stations during construction), golf courses, public works yards and marinas.

Stormwater Management shall mean the interception, conveyance, treatment, and management of storm water runoff in a manner that is intended to prevent flood damage, channel erosion, habitat degradation and water quality degradation and to enhance and promote the public health, safety and general welfare.

Stormwater Management Facilities shall mean constructed or natural components of a stormwater drainage system, designed to perform a particular function, or multiple functions, including, but not limited to pipes, swales, ditches, canals, wetlands, culverts, street gutters, detention basins, flood hazard areas, retention basins, constructed wetlands, infiltration devices, catch basins, oil/water separators, sediment basins, natural and modular pavement.

Stormwater Management Plan shall mean a written document that details how stormwater runoff will be managed on a development site and that shows how the stormwater management criteria that apply to the development project have been met.

Stormwater Management Practice shall mean a practice or technique, either structural or nonstructural that is used to intercept stormwater runoff and change the characteristics of that runoff. Stormwater management practices are used to control post-construction stormwater runoff rates, volumes and pollutant loads to prevent increased flood damage, channel erosion, habitat degradation and water quality degradation.

Stormwater Management System shall mean the entire suite of green infrastructure and stormwater management practices and stormwater conveyance features that are used to intercept, convey, treat and manage stormwater runoff on a development site.

Stormwater Retrofit shall mean a green infrastructure or stormwater management practice designed for an existing development site that previously had no green infrastructure or stormwater management practice in place or had a practice that was not meeting local stormwater management criteria.

Stormwater Runoff shall mean the direct response of a land surface to precipitation and includes the surface and subsurface runoff that enters a ditch, stream, storm drain or other concentrated flow during and following the precipitation.

Stormwater Runoff Reduction shall mean providing for the interception, evapotranspiration, infiltration, or capture and reuse of stormwater runoff to help maintain pre-development site hydrology and help protect aquatic resources from several indirect impacts of the land development process, including decreased groundwater recharge, decreased baseflow and degraded water quality.

Subdivision shall mean the division of a parcel of land to create one or more new lots or development sites for the purpose, whether immediately or in the future, of sale, transfer of ownership, or land development, and includes divisions of land resulting from or made in connection with the layout or construction of a new street or roadway or a change in the layout of an existing street or roadway.

Variance shall mean the modification of the minimum stormwater management requirements for specific circumstances where strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of this ordinance.

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

Water Quality Protection shall mean adequately treating stormwater runoff before it is discharged from a development site to help protect downstream aquatic resources from water quality degradation.

Water Quantity shall mean those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff.

Watercourse shall mean a permanent or intermittent stream or other body of water, either natural or man-made, which collects and/or conveys surface water.

Watershed Management Plan or Subwatershed Management Plan shall mean a document, usually developed cooperatively by government agencies and other stakeholders, to protect, restore and/or otherwise manage the water resources found within a particular watershed or subwatershed. Watershed or subwatershed management plans commonly identify threats, sources of impairment, institutional issues and technical and programmatic solutions or projects to protect and/or restore water resources.

Watershed shall mean the drainage area contributing stormwater runoff to a single point in the stormwater system.

Wetland Hydroperiod shall mean the pattern of fluctuating water levels within a wetland caused by the complex interaction of surface water, groundwater, topography, soils and geology within a wetland.

Section 30-239 Stormwater Management Design Procedures & Requirements**(a) Development Plan Submittal Review Requirements**

No owner or developer shall undertake any non-exempt development activity without first meeting the requirements of this ordinance and receiving City approval for the proposed land development activity from Garden City. Unless specifically exempted by this ordinance or granted a waiver by the City Manager or his designee from specific requirements, any owner or developer proposing a development project shall submit to Garden City the required information in a format specified by Garden City. The following items shall accompany the submittal package:

- (1) Stormwater management concept plan prepared in accordance with Section 30-239(b);
- (2) Record of a consultation meeting held in accordance with Section 30-239(c);
- (3) Stormwater management design plan prepared in accordance with Section 30-239(d);
- (4) Stormwater Management System Inspection & Maintenance Agreement prepared in accordance with Section 30-239(e);
- (5) Application and development plan review fees submitted in accordance with Sections 30-239(f) and 30-239(g), and the City's most recently adopted fee schedule; and,
- (6) A statement from the developer that he/she understands that they will be required to post and that he/she can post a performance bond (or other means of security acceptable to Garden City) in accordance with applicable requirements of Section 30-239(h).

The LDM provides additional details and requirements pertaining to the preparation, submittal, review and approval process associated with stormwater management design and development plans. If an owner or developer has been granted a waiver by the City Manager or his designee, written documentation pertaining to the specific items that will be submitted as well as those that will not be submitted must be provided to the City at the onset of the project.

(b) Stormwater Management Concept Plan

Prior to the preparation and submittal of a stormwater management design plan review and approval request, the owner or developer shall submit to Garden City a stormwater management concept plan illustrating the layout of the proposed development project and showing, in general, how post-construction stormwater runoff will be managed on the development site.

Green infrastructure practices (i.e., better site planning techniques, better site design techniques, low impact development practices) are encouraged to be used during the creation of a stormwater management concept plan. Green infrastructure practices include, but are not limited to, protecting primary and secondary conservation areas, reducing clearing and grading limits, reducing roadway lengths and widths, reducing parking lot and building footprints, soil restoration, site reforestation/revegetation, green roofs, vegetated filter strips and rain gardens. Section 7.1 of the LDM provides additional detail regarding the requirements for the Stormwater Management Concept Plan.

(c) Consultation Meeting & Coordination

All applicants are encouraged to attend a consultation meeting with Garden City staff to discuss the proposed development project, the stormwater management concept plan and the approach that will be used to satisfy the post-construction stormwater management and site planning and design criteria that apply to the development site. This consultation meeting should take place in advance of submittal of the stormwater management concept plan, for the purposes of verifying site conditions and the feasibility of the stormwater management concept plan.

(d) Stormwater Management Design Plan

Subsequent to approval of the stormwater management concept plan, the owner or developer shall submit to Garden City for review and approval, a stormwater management design plan that details how post-development stormwater runoff will be controlled or managed on the development site. The stormwater management design plan shall detail how the proposed development project will meet the post-construction stormwater management and site planning and design criteria that apply to the development site.

A copy of the stormwater management concept plan shall be included with the submittal of the stormwater management design plan. The stormwater management design plan should be consistent with the stormwater management concept plan. If any significant changes were made to the plan of development, the City Manager or his designee may ask for a written statement providing rationale for any of the changes that were made. Section 7 of the LDM provides additional detail regarding the requirements for the Stormwater Management Design Plan.

(e) Stormwater Management System Inspection & Maintenance Plan Agreement

Prior to the issuance of a LDA Permit for any new development or redevelopment activity that requires one, the applicant or owner of the development site, if different, must execute an inspection and maintenance plan agreement that shall be binding on all subsequent owners of the site, unless the stormwater management system is dedicated to and accepted by Garden City. A sample copy of the Stormwater Facility Inspection & Maintenance Plan Agreement is included in the Garden City Stormwater Management LDM. Section 7.8 of the LDM provides additional detail regarding the requirements for the Stormwater Facility Inspection & Maintenance Plan Agreement.

(f) Stormwater Management Design Submittal & Approval Procedure

The LDM provides detailed information regarding the procedures and requirements for the Stormwater Management Design Plan Submittal and Approval Process. The process is generally described in the ensuing paragraphs of this section of the ordinance.

- (1) Stormwater management design review and approval requests shall be filed with Garden City in a format specified by the City.

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- (2) Stormwater management design review and approval requests shall include the items set forth herein.
 - (3) The City Manager or his designee shall inform the applicant whether the stormwater management design plan and the inspection and maintenance plan agreement are approved or disapproved.
 - (4) If the design package, stormwater management design plan, and/or the inspection and maintenance plan agreement are not approved, the City Manager (or his designee) shall notify the applicant of that fact in writing. The applicant must revise any item not meeting the requirements of this ordinance and resubmit the package.
 - (5) Upon a finding by the City Manager or his designee that the stormwater management design package; stormwater management design plan; and the inspection and maintenance agreement plan (if applicable) meet the requirements of this ordinance, the City Manager or his designee will approve the stormwater management design for the development project, provided that all other applicable legal requirements for the issuance of a LDA Permit have been met.
 - (6) Notwithstanding approval of the stormwater management design, in undertaking the new development or redevelopment activity, the applicant or other responsible person shall be subject to the following requirements:
 - a. The applicant shall comply with all applicable requirements of the approved stormwater management design plan and the provisions of this ordinance and shall certify that all land disturbing and development activities will be completed in accordance with the approved stormwater management design plan;
 - b. The development project shall be conducted only within the area specified in the approved stormwater management design plan;
 - c. The City Manager (or his designee) shall be allowed to conduct periodic inspections of the development project in accordance with applicable sections of this ordinance;
 - d. No changes may be made to an approved stormwater management design plan without review and written approval by the City Manager (or his designee); and,
 - e. Upon completion of the development project, the applicant or other responsible person shall submit a statement certifying that the project has been completed in accordance with the approved stormwater management design plan. The applicant or other responsible person shall also submit as built plans for the stormwater management system, as required under the applicable sections of this ordinance.

(g) Development Review Fees

Garden City will develop and periodically amend the fee schedule related to the costs associated with the administrative, managerial and technical review activities related to implementation of this ordinance. In accordance with the adopted fee schedule, the City will collect a non-refundable development review fee at the time the stormwater management design package is submitted to Garden City for initial review. The development review fees that are collected shall be used to support the administrative, managerial and technical review activities associated with the plan review and approval process as well as the development inspection of related project elements that are subject to the requirements of this ordinance.

(h) Performance Bonds

Garden City shall require, from the owner, a surety or performance bond, letter of credit (or other means of security acceptable to Garden City) immediately prior to the issuance of a LDA Permit for any new development or redevelopment activity. The amount of the security shall not be less than the total estimated construction cost of the post-construction stormwater management system to be installed on the development site. The bond shall include provisions relative to forfeiture for failure to complete the work specified in the approved stormwater management plan, compliance with the provisions of this ordinance, other applicable laws and regulations and any time limitations.

The performance bond shall not be fully released without a final inspection by the City of the completed work; submittal of as-built plans including certification that the stormwater management system complies with the approved stormwater management design plan and the requirements of this ordinance; a recorded inspection and maintenance plan agreement; and final construction acceptance by the City. All as-built certification work shall be completed in accordance with applicable sections of this ordinance and the LDM. A procedure may be used to release parts of the bond held by the City after various stages of construction have been completed and approved by the City. It will be the responsibility of the applicant to outline in the writing the procedures used by the City with regard to partially releasing performance bonds. The procedures shall be documented in writing by the City prior to the approval of a storm water management design plan.

(i) Maintenance Bonds

The owner shall post a maintenance bond (letter of credit or other means of security acceptable to Garden City) on the stormwater management system for a two year period after completion and acceptance of the facility by the City. It shall be owner's obligation to provide all maintenance for a two year period after acceptance of the system by the City. The maintenance bond shall be an amount equal to twenty-five (25%) percent of the initial bond amount posted for the construction of the stormwater management system on the development site.

(j) Compliance through Off-Site Stormwater Management Practices or Direct Discharge into Open Tidal Waters

All stormwater management design plans shall include on-site stormwater management practices, unless arrangements are made with the City Manager or his designee to manage post-construction stormwater runoff in an off-site or regional stormwater management practice. The off-site or regional stormwater management practice must be located on property legally dedicated to that purpose, be designed and sized to meet the post-construction stormwater management criteria presented in the Garden City LDM, provide a level of stormwater quality and quantity control that is equal to or greater than that which would be provided by on-site green infrastructure and stormwater management practices and have an associated inspection and maintenance plan agreement. In addition, appropriate stormwater management practices shall be installed, where necessary, to protect properties and drainage channels that are located between the development site and the location of the off-site or regional stormwater management practice.

To be eligible for compliance through the use of off-site stormwater management practices, the applicant must submit a stormwater management design plan to Garden City that shows the adequacy of the off-site or regional stormwater management practice and demonstrates, to the satisfaction of the City Manager or his designee, that the off-site or regional stormwater management practice will not result in the following impacts:

- (1) Increased threat of flood damage or endangerment to public health or safety;
- (2) Deterioration of existing culverts, bridges, dams and other structures;
- (3) Accelerated streambank or streambed erosion or siltation;
- (4) Degradation of in-stream biological functions or habitat; or,
- (5) Water quality impairment in violation of state water quality standards and/or violation of any other state or federal regulations.

In addition, the requirement for on-site stormwater management practices can be waived if one of the two conditions stipulated below can be met to the satisfaction of the City Manager or his designee: (1) the development directly discharges into open tidal waters or (2) provisions are made to provide for a drainage system with adequate capacity to carry site runoff flows to open tidal waters. The City will require the developer or owner to coordinate this request with adjacent or downstream property owners and/or local governments as outlined in applicable Sections of the LDM.

Section 30-240 Illicit Discharge and Illicit Connection**(a) Prohibition**

- (1) It is unlawful for any person to throw, drain, run, or otherwise discharge to any component of the municipal storm sewer system or to cause, permit or suffer to be thrown, drained, run, or allow to seep or otherwise discharge into such system all matter of any nature excepting only such storm or surface water as herein authorized.
- (2) It shall be unlawful for any person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface, modify, or tamper with any stormwater structure, appurtenance, or equipment.
- (3) It shall be unlawful, without prior written authorization of the City Manager or his designee, to alter in any way any part of the stormwater system including, but not limited to, rerouting, removing, deepening, widening, enlarging, filling or obstructing any part of the stormwater system including fencing easements and rights-of-way which render the system inaccessible to equipment necessary to perform maintenance and repairs.
- (4) It is unlawful for any person, company, corporation, etc. to connect any pipe, open channel, any other conveyance system that discharges anything except stormwater or unpolluted water which is approved by the City Manager or his designee, based on the exemptions listed below, to the municipal storm sewer system.
- (5) Improper connections in violation of this article must be disconnected and redirected, if applicable, to the City's sanitary sewer system upon approval by the City Manager or his designee and in accordance with the Garden City Code of Ordinances.

(b) Exemptions

The following activities are exempt from the prohibition provision above:

- (1) Water line flushing performed by a government agency, diverted stream flows, rising ground waters, and unpolluted ground water infiltration.
- (2) Unpolluted pumped ground water.
- (3) Unpolluted discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, and street wash water.
- (4) Unpolluted discharges or flows from fire fighting.
- (5) Other unpolluted discharges with approval from the City Manager or his designee.

(c) Watercourse Protection

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(d) Accidental Discharge

In the event of an accidental discharge to the MS4 of any material or substance other than stormwater runoff, the person concerned shall inform the Garden City Code Enforcement staff, and all other impacted entities immediately but no later than two hours after said person becomes aware of the incident and notify the City as to the nature, quantity and time of occurrence of the discharge. The person concerned shall take immediate steps to contain, treat, or take other actions to minimize effects of the discharge on the municipal storm sewer system and receiving streams. The person shall also take immediate steps to ensure no recurrence of the discharge.

Section 30-241 Construction Inspection of Stormwater Management Systems

The LDM provides additional information and details regarding approved construction materials and practices regarding stormwater management controls and systems.

(a) Notice of Construction Commencement

The applicant must notify Garden City via letter, or via another communication method agreed to by the City, prior to the commencement of construction on a development site. In addition, the applicant must notify the City Manager or his designee in advance of the installation of critical components of the stormwater management system shown on the approved stormwater management design plan. The City Manager or his designee may, at his discretion, issue verbal or written authorization to proceed with the installation of critical components of the stormwater management system, such as permanent green infrastructure and stormwater management practices, based on site-specific factors.

(b) Construction Phase Observation

The City may perform periodic observation of the green infrastructure and stormwater management practices installation work as depicted on the approved stormwater management design plan. The observation work shall be conducted by City staff or authorized representatives of the City Manager or his designee during construction. Construction observation work shall utilize the approved stormwater management design plan for establishing compliance with the provisions of this ordinance. All observation work shall be documented in written reports that contain the following information:

- (1) The date and location of the inspection;
- (2) The name of the inspector;
- (3) Whether construction is in compliance with the approved stormwater management design plan;
- (4) Violations of the approved stormwater management design plan; and,
- (5) Any other variations from the approved stormwater management plan.

If any violations are found, the applicant shall be notified in writing about the nature of the violation and the remedial measures that are required to bring the action or inaction into compliance with the approved stormwater management design plan, as described in Section 30-343(b). In the event that the remedial measures described in such notice have not been completed by the date set forth in the notice, any one or more of the enforcement actions outlined in Section 30-343(c) of this ordinance may be taken against the applicant.

(c) Final Inspection and As-Built Plans

Subsequent to the final installation and stabilization of all green infrastructure and stormwater management practices shown on the approved stormwater management design plan, and before the issuance of a certificate of occupancy or a certificate of construction acceptance (if appropriate) , the applicant is responsible for documenting that the project has been completed in accordance with the approved stormwater management design plan through the submittal of as-built plans for all stormwater management practices shown on the approved stormwater management design plan. The as-built plans must show the final design specification data for all green infrastructure and stormwater management practices (i.e. invert elevations, slopes, facility and pipe locations, dimensions, etc). In addition, a licensed professional engineer must provide a design certification that the development has been constructed in substantial accordance with the approved stormwater management design plan. A final inspection may be conducted by the City Manager or his designee to confirm the accuracy of the as-built plans as well as the information provided in the design certification. A final inspection is required before any performance bond or other guarantee can be released, unless otherwise agreed to by the City Manager or his designee per Section 30-239(h) of this ordinance. All as-built certification work shall be completed in accordance with applicable sections of this ordinance and the LDM.

Section 30-242 Ongoing Inspection & Maintenance of Stormwater Management Systems**(a) Maintenance Responsibility**

The responsible party named in the recorded stormwater management system inspection and maintenance plan agreement, shall maintain in good condition and promptly repair and restore all green infrastructure and stormwater management practices, maintenance access routes and appurtenances, including, but not limited to surfaces, walls, drains, dams, structures, vegetation, erosion and sediment control practices and other devices. Such repairs and restoration and maintenance activities shall be performed in accordance with an approved inspection and maintenance plan agreement.

If the responsible party named in the recorded inspection and maintenance plan agreement is a homeowner's association, or other association, the responsible party shall submit to the City Manager or his designee a copy of a recorded declaration that provides:

- (1) That green infrastructure and stormwater management practices are part of the common elements of the development site and shall be subject to the requirements of the stormwater management system inspection and maintenance plan agreement;
- (2) That membership in the entity responsible for maintenance shall be mandatory and automatic for all homeowners or parcel owners of the development site and their successors;
- (3) That the entity responsible for maintenance shall have lien authority, or a mechanism comparable and satisfactory to the City, to ensure the collection of dues from all members;
- (4) That the requirements of the inspection and maintenance plan agreement shall receive priority for expenditures by the entity responsible for maintenance except for any other expenditures that are required by law to have a higher priority;
- (5) That a separate fund shall be maintained by the entity responsible for maintenance for the routine maintenance, reconstruction and repair of the green infrastructure and stormwater management practices, and kept in an account insured by the Federal Deposit Insurance Corporation (FDIC), or by another method acceptable to the City;
- (6) That the routine maintenance, reconstruction and repair fund shall contain at all times the dollar amount reasonably determined from time to time by Garden City to be adequate to pay for the probable reconstruction and repair cost (but not routine maintenance cost) of the stormwater management system for a three-year period; unless otherwise agreed to by the City; and,
- (7) That, to the extent permitted by law, the entity responsible for maintenance shall not enter into voluntary dissolution unless responsibility for the green infrastructure and stormwater management practices is transferred to an appropriate successor.

In lieu of an inspection and maintenance plan agreement, Garden City may accept the dedication of any existing or future green infrastructure or stormwater management practice for

maintenance, provided that such practice meets all of the requirements of this ordinance, is in proper working order at the time of dedication and includes adequate and perpetual access and sufficient area for inspection and regular maintenance. Such adequate and perpetual access shall be accomplished by granting of an easement to Garden City or through a fee simple dedication to Garden City.

(b) Inspections

The City Manager or his designee, bearing proper credentials and identification, shall be permitted to enter, in accordance with local, state and federal laws, all properties for regular inspections, periodic investigations, observation, measurement, enforcement, sampling and testing, in accordance with provisions of this ordinance. The City Manager or his designee shall duly notify the owner of said property or the representative on site prior to the inspection, except in the case of an emergency. The City Manager or his designee, bearing proper credentials and identification, shall be permitted to enter, in accordance with local, state and federal laws, all properties for which the City holds a negotiated easement for inspection, repairs, maintenance and other purposes related to any portion of the stormwater management facilities lying within said easement.

- (1) The City Manager or his designee shall determine inspection schedules necessary to enforce the provisions of this ordinance.
- (2) Measurements, tests and analyses performed by the Department or required of any discharger to the MS4 shall be in accordance with applicable sections of the City Code of Ordinances, unless another method is approved by the City Manager or his designee.
- (3) All inspections should be documented in written reports that contain the following information:
 - a. The date and location of the inspection;
 - b. The name of the person who performed the inspection;
 - c. The condition of:
 1. Vegetation and filter media;
 2. Fences and other safety devices;
 3. Spillways, valves and other hydraulic control structures;
 4. Embankments, slopes and safety benches;
 5. Reservoirs and permanent pools;
 6. Inlet and outlet channels and structures;
 7. Underground drainage structures;
 8. Sediment and debris accumulation in storage and forebay areas; and
 9. Any other item that could affect the proper function of the stormwater management system.
- (4) Upon completion of the field inspection, the inspector shall prepare a written description of repair, restoration and maintenance needs for the system in a summary format. If any repair, restoration or maintenance needs are found, the responsible party shall be notified

in writing about the repair, restoration or maintenance needs and the remedial measures that are required to bring the stormwater management system into compliance with the provisions of this ordinance and the approved stormwater management system inspection and maintenance plan agreement, as described in Section 30-343(b). In the event that the remedial measures described in such notice have not been completed by the date set forth in the notice, any one or more of the enforcement actions outlined in Section 30-343(c) of this ordinance may be taken against the responsible party named in the approved stormwater management system inspection and maintenance plan agreement.

(c) Records of Maintenance Activities

The responsible party shall make and maintain records of all inspections, maintenance and repairs, and shall retain the records for a minimum of five years. These records shall be made available to Garden City during inspections and at other reasonable times upon request of Garden City.

(d) Failure to Maintain

If the responsible party fails or refuses to meet the terms and conditions of an approved Stormwater Management System Inspection and Maintenance Plan Agreement and/or the requirements of this ordinance, Garden City or its authorized representative may correct a violation by performing the work necessary to place the green infrastructure or stormwater management practice in proper working condition after thirty (30) days written notice. The exception to the 30 day period would be if the City properly establishes that the violation constitutes an immediate danger to public health or safety in which case the City would grant 24 hours notice to the property owner.

(e) Cost Recovery for City Funded Stormwater Management Services

If Garden City performs repair, remediation and/or maintenance work in accordance with the provisions of this ordinance, and other applicable city ordinances, the City may assess the responsible party (or parties) for the cost of the work. This cost shall be in the form of a lien on the property and may be placed on the customer's stormwater utility bill for such property and collected in the ordinary manner for such fees by Garden City.

Section 30-343 Enforcement, Variances, and Appeals**(a) Enforcement**

Any action or inaction that violates the provisions of this ordinance or the requirements of an approved stormwater management design plan, land development related permit, or inspection and maintenance plan agreement, may be subject to the enforcement actions outlined in this Section. Any such action or inaction that is continuous with respect to time may be deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

(b) Notice of Violation

If Garden City determines that an owner, applicant or other responsible person has failed to comply with the provisions of this ordinance, or the terms and conditions of an approved stormwater management design plan, LDA permit, or the inspection and maintenance plan agreement, it shall issue a written notice of violation (NOV) to said owner, applicant or other responsible entity. Where an entity is engaged in a new development or redevelopment activity covered by this ordinance without having first secured approval of the stormwater management design, the NOV shall be served on the owner, person or entity in charge of the new development or redevelopment activity being conducted on the development site.

The NOV shall contain the following information:

- (1) The name and address of the owner, applicant or other responsible person;
- (2) The address or other description of the site upon which the violation is occurring;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to bring the action or inaction into compliance with the provisions of this ordinance, or the terms and conditions of the approved stormwater management design plan, land development related permit, or inspection and maintenance plan agreement, and the date for the completion of such remedial plan by the responsible parties;
- (5) A statement of the penalty or penalties that may be assessed against the person to whom the NOV is issued; and,
- (6) A statement that the determination of violation may be appealed to Garden City by filing a written notice of appeal within thirty (30) days after the NOV (except, that in the event the violation constitutes an immediate danger to public health or safety, a written notice of appeal must be filed within 24 hours after the NOV).

(c) Penalties

In the event that the remedial measures described in the NOV have not been completed by the date set forth for completion in the NOV, any one or more of the following actions or penalties may be taken or assessed against the person to whom the NOV was issued.

Before taking any of the following actions or imposing any of the following penalties, Garden City shall first notify the owner, applicant or other responsible person or entity in writing of its intended action and shall provide a reasonable opportunity of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or safety, 24 hours notice shall be sufficient) to correct the violation. In the event the owner, applicant or other responsible person fails to correct the violation by the date set forth in said notice, Garden City may take any one or more of the following actions or impose any one or more of the following penalties.

- (1) Stop Work Order: The City Manager or his designee may issue a stop work order that shall be served on the owner, applicant or other responsible person. The stop work order shall remain in effect until the owner, applicant or other responsible person has taken the remedial measures set forth in the NOV or has otherwise corrected the violation or violations described therein. The stop work order may temporarily be withdrawn or modified by City Manager or his designee to enable the applicant or other responsible person to take the remedial measures necessary to correct such violation or violations.
- (2) Withhold Certificate of Occupancy (CO): City Manager or his designee may refuse to issue a CO for the building or other structure constructed or being constructed on the development site until the owner, applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise corrected the violation or violations described therein.
- (3) Suspension, Revocation, or Modification of LDA Permit: The City Manager or his designee may suspend, revoke or modify the LDA Permit authorizing the development project. A suspended, revoked or modified LDA Permit may be reinstated after the owner, applicant or other responsible person has taken the remedial measures set forth in the NOV or has otherwise corrected the violation or violations described therein. The LDA Permit may be modified by the City Manager or his designee to enable the owner, applicant or other responsible person to take the remedial measures necessary to correct such violation or violations.
- (4) Civil Penalties: In the event the owner, applicant or other responsible person fails to take the remedial measures set forth in the NOV or otherwise fails to correct the violation or violations described therein, by the date set forth in the notice of violation, Garden City may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains un-remedied after the date set forth in the NOV. In assessing the civil penalty, Garden City may consider the following factors:
 - a. Damages to the city, including compensation for the damage or destruction to the MS4, and also including any penalties, costs, and attorney fees incurred by the

city as the result of the illegal activity, as well as the cause of the discharge or violation;

- b. The severity of the discharge and its effects upon the MS4 and upon the quality and quantity of the receiving waters;
 - c. Effectiveness of action taken by the violator to cease the violation;
 - d. The technical and economic reasonableness of reducing or eliminating the discharge; and
 - e. The economic benefit gained by the violator
- (5) Criminal Penalties: For intentional and flagrant violations of this ordinance, Garden City may issue a citation to the owner, applicant or other responsible person, requiring said person to appear in Municipal Court to answer to criminal charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000, imprisonment for up to 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(d) Appeals

- (1) Any person aggrieved by a decision of the City Manager or his designee (including any decision with reference to the granting or denial of a variance from the terms of this ordinance) may appeal same by filing a written notice of appeal with the City Manager within five days of the issuance of said decision by the City Manager or his designee. A notice of appeal shall state specific reasons.
- (2) The City Manager shall prepare and send to City Council and appellant a written response to said notice of appeal within ten days of receipt of the notice of appeal.
- (3) All appeals shall be heard by City Council. The hearing shall be held within 30 days after receipt of notice of appeal or a date mutually agreed upon in writing by the appellant and the City Manager. The City Council shall then make its findings within ten days of the appeal hearing.
- (4) If the appellant is dissatisfied with City Council's decision, he or she can appeal said decision to the superior Court of the County.

(e) Variances from Requirements

The City Manager or his designee may grant a variance from requirements of this ordinance if exceptional circumstances applicable to a site exist such that strict adherence to the provisions of the ordinance will result in unnecessary hardship and will not fulfill the intent of the ordinance. The City Manager or his designee may grant a variance from requirements of this ordinance if the proposed development activity will not:

- (1) Increase in rate, volume, or concentration of runoff to the existing downstream storm sewer system;
- (2) Increase the base flood elevation upstream or downstream; or

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- (3) Have a negative impact on any wetland, watercourse, or water body; or
 - (4) Contribute to degradation of water quality.

A written request for a variance shall be required and shall state the specific variance sought and the reasons a variance should be granted. The request shall be accompanied by all necessary supporting data and provided in a format that is deemed acceptable by the City. The City Manager or his designee will conduct a review of the variance request within ten working days of receiving the request.

Section 30-344 Cooperation with other Governments

The City may enter into agreements with other local governments to carry out the purpose of this ordinance. These agreements may include, but are not limited to, enforcement of provisions, resolution of disputes, cooperative monitoring of water quality and cooperative management and inspection of stormwater system and management programs.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. This Ordinance shall become effective on April 1, 2012.

ADOPTED THIS _____ day of August, 2011.

Rhonda Ferrell-Bowles
Clerk of Council

RECEIVED AND APPROVED THIS _____ day of August, 2011.

TENNYSON HOLDER
Mayor

Read first time:

Read second time and passed: