Last Revision 12-13-05

ORDINANCE NO. 06-___

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10, ARTICLE VII, DIVISION 8 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA; AMENDING SECTION 10-362, INSPECTIONS GENERALLY; AMENDING SECTION 10-363, POST-CONSTRUCTION INSPECTION, CERTIFICATION AND WARRANTY FOR SITE IMPROVEMENT AND STORMWATER MANAGEMENT FACILITIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, that:

Section 1. Section 10-362 of Chapter 10 of the Code of Laws of Leon County, Florida, is hereby amended to read as follows:

Sec. 10-362. Inspections generally.

(a) Any duly authorized representative may at any reasonable time enter and inspect, for the purpose of ascertaining the state of compliance with the provisions of this article, any property, premises, or place on or at which any development activity which is or may be subject to regulation under the provisions of this article, is, or has been, occurring. Owners and users of such property, premises, or place shall give reasonable access to any representative of the county who requests entry for purposes of inspection and who presents appropriate credentials. No person shall hamper, obstruct, or interfere with any such inspection.

(b) The following inspections shall be conducted in conjunction with all development activities:

(1) Initial inspection, which shall be conducted prior to approval of any permit application.

(2) Erosion control or vegetation control inspection, which shall include inspection to ensure proper installation of erosion and sediment controls prior to initiation of any other development activity where required as a condition of the permit, and periodic and regular site visits as necessary to insure effective control of erosion and sedimentation and adequate protection of vegetation.

(3) Final inspection and notice of completion. This inspection shall occur when development activities permitted for the site have been substantially completed. No certificate of occupancy shall be issued, nor any building or premises

occupied, unless and until the director has determined after final inspection that all work, including installation of all stormwater management facilities, landscaping and other permitted components have been installed in accordance with the approved permit; that any tree protection or removal activity has been carried out according to the approved permit and plan; and that all required easements have been obtained, documented, and recorded in the public records. However, a temporary certificate of occupancy may be issued by the director where a performance bond or other security has been approved, or where only very minor permit compliance deficiencies are found, provided that such bonded uncompleted improvements and other minor deficiencies be satisfactorily installed or corrected within a reasonable length of time as specified by the director. The permanent certificate of occupancy and the notice of completion shall be withheld until such improvements are completed and approved by the director after inspection. Notwithstanding the above, certificates of occupancy may be released to owner's of homes in platted public subdivisions where the infrastructure has been determined to be substantially complete, and where a performance bond has been accepted to cover the costs associated with the minor remaining infrastructure and other required improvements.

(4) Failure to maintain the site in compliance with the EMA and the inspections outlined in Section 10-362(b)(1,2,3) may result in denial of any inspection required by the Leon County Building Code.

Section 2. Section 10-363 of Chapter 10 of the Code of Laws of Leon County, Florida, is hereby amended to read as follows:

Sec. 10-363. Post-construction inspection, certification and warranty for site improvement and stormwater management facilities.

(a) *Generally.* Prior to requesting a final inspection by the director pursuant to section 10-362(b)(3) above, the permittee shall cause a qualified professional personally to inspect the site and facilities and certify as provided for in subsection (b). Normally, this professional should be the site design professional involved in the design and permit application work. If the improvements are of a nature which would prevent the professional from certifying the correct installation with only a final review, the permittee shall insure that the certifying professional is adequately involved during construction to provide final certification of the facility as a whole. The certifying professional shall also accompany the director during the final inspection of the project.

(b) *Record drawing, easements, and environmental management plan compliance report.* Prior to requesting a final inspection, the permittee's design representative shall prepare and submit two complete sets of record drawings and shall certify on such plans that the facilities shown thereon have been constructed in the manner indicated. The certifying

professional shall additionally prepare and submit a report with the record drawings and copies of all required easement documentation, which shall be entitled environmental management plan compliance report, and in which the certifying professional shall make the determination of whether the stormwater management system, as constructed and shown on the record drawing, is in substantial compliance with the environmental management permit application. All substantial variations, including additions to or omissions from the approved plan, must be clearly identified in this report. The professional shall address the effect of such variation on the intent of the original plan. If a variation substantially alters the resulting stormwater management facility performance from the intent of the original plan, the professional shall identify what modifications and improvements are required to bring the project into substantial compliance with the approved plan. The report shall include all information required for adequate review of the conclusions made therein, and shall be certified by the qualified professional. For the purposes hereof, substantial variation shall include the following:

(1) An increase of more than five percent impervious areas.

(2) An increase of more than five percent of directly connected impervious areas.

(3) Significant alterations to the stormwater system, including holding ponds, conveyance systems, or discharge methods or locations.

(4) Significant changes to design, grade or additional fill or excavation which may affect runoff.

(5) Additional utilities or structures.

(6) Unpermitted removal of protected trees and notable variations in landscaping and required natural areas.

(7) Any change which conflicts with any state or local regulation.

(c) *Post-construction inspection.* The director shall inspect the work and shall either approve it or notify the applicant in writing in what respects there has been a failure to comply with the requirements of the approved permit. The notice of completion and certificate of occupancy for the development project shall be withheld pending correction of all items not in compliance, <u>or certificates of occupancy may be released if a surety instrument is accepted by the county, for single family building permits in platted public subdivisions where the infrastructure has been determined to be substantially complete</u>. Any portion of the work which does not comply shall be promptly corrected by the applicant, within a time period set forth by the director, or the applicant shall be subject to penalty provisions of section 10-365.

(d) *Certification as warranty.* The permittee, through certification by his qualified professional that the stormwater management system is in substantial conformance with the permitted stormwater management plan and environmental management permit, shall be deemed to warrant the improvements certified, as follows:

(1) *Warranty obligations.* Should the stormwater management system improvements fail prematurely or not function as represented in the initial application for the environmental management permit, then the original permittee, even if the property has thereafter been transferred, shall perform any and all necessary maintenance or make whatever additional modifications, replacements or new improvements which are necessary to bring the stormwater management system into compliance with the representations made when applying for the initial environmental management permit.

(2) *Warranty period.* If the warranted facilities are dedicated to a local governmental entity, the warranty period shall commence with the formal dedication of the facilities and shall run for a period of one year. If the warranted facilities are to be maintained by others, the warranty shall commence with the issuance of a notice of completion by the director and shall run for a period of one year.

(3) *Warranty enforcement.* Prior to dedication of any facility to a local governmental entity and prior to issuance of a notice of completion by the director, the permittee shall execute a formal warranty agreement to insure the fulfillment of all warranty obligations. Failure to comply with the warranty obligations imposed herein shall be a violation of this article and the permittee shall be subject to the enforcement and penalty provisions of this article as well as any other legal remedies which might be available.

(Ord. No. 92-3, § 1(7-71(3)), 1-28-92)

Section 3. Conflicts

All ordinances or parts of ordinances in conflict with the provisions of the Ordinance are hereby repealed to the extent of such conflict, as of the effective date of this Ordinance, except to the extent of any conflicts with the Tallahassee-Leon County Comprehensive Plan, as amended, which provisions shall prevail over any parts of this Ordinance which are inconsistent, either in whole or in part, with the Comprehensive Plan.

Section 4. Severability

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to

be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and, such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Effective Date

This ordinance shall have effect upon becoming law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this ____ of _____, 2006.

LEON COUNTY, FLORIDA

BY:_____
BILL PROCTOR
CHAIRMAN, BOARD OF COUNTY COMMISSIONERS

ATTEST:
BOB INZER, CLERK OF THE COURT
LEON COUNTY, FLORIDA

BY: _____
CLERK

APPROVED AS TO FORM:
LEON COUNTY ATTORNEY'S OFFICE

BY:_____
HERBERT W.A. THIELE, ESQ.
COUNTY ATTORNEY