



**CITY OF TYBEE ISLAND**  
**SITE PLAN APPROVAL WITH VARIANCE APPLICATION**

*Site Plan Fee*  
Commercial \$500  
Residential \$250

*Variance Fee*  
Commercial \$500  
Residential \$200

Applicant's Name \_\_\_\_\_

Address and location of subject property \_\_\_\_\_

PIN \_\_\_\_\_ Applicant's Telephone Number \_\_\_\_\_

Applicant's Mailing Address \_\_\_\_\_

Brief description of the land development activity and use of the land thereafter to take place on the property:

\_\_\_\_\_

Explain the requested variance \_\_\_\_\_

Explain the hardship \_\_\_\_\_

Property Owner's Name \_\_\_\_\_ Telephone Number \_\_\_\_\_

Property Owner's Address \_\_\_\_\_

Is Applicant the Property Owner?      \_\_\_ Yes      \_\_\_ No

If Applicant is the Property Owner, Proof of Ownership is attached:      \_\_\_ Yes

If Applicant is other than the Property Owner, a signed affidavit from the Property Owner granting the Applicant permission to conduct such land development is attached hereto.      \_\_\_ Yes

Current Zoning of Property \_\_\_\_\_ Current Use \_\_\_\_\_

Names and addresses of all adjacent property owners are attached:      \_\_\_ Yes

If within two (2) years immediately preceding the filing of the Applicant's application for a zoning action, the Applicant has made campaign contributions aggregating to more than \$250 to the Mayor and any member of Council or any member of the Planning Commission, the Applicant and the Attorney representing the Applicant must disclose the following:

- a. The name of the local government official to whom the campaign contribution or gift was made;
- b. The dollar amount of each campaign contribution made by the applicant to the local government official during the two (2) years immediately preceding the filing of the application for this zoning action, and the date of each contribution;
- c. An enumeration and description of each gift having a value of \$250 or more made by the Applicant to the local government official during the two (2) years immediately preceding the filing of the application for this zoning action.

Disclosure of Campaign Contributions form attachment hereto:      \_\_\_ Yes

\_\_\_\_\_  
Signature of Applicant      Date

NOTE: Other specific data is required for each type of Site Plan Approval with Variance.

Fee Amount \$ \_\_\_\_\_ Check Number \_\_\_\_\_ Date \_\_\_\_\_

City Official \_\_\_\_\_

NOTE: This application must be accompanied by additional documentation, including drawings that include or illustrate the information outlined below.

\_\_\_\_\_ 4 copies, no smaller than 24 x 36, of the engineered drainage and infrastructure plan.

\_\_\_\_\_ 13 copies, no smaller than 11 x 17, of the existing tree survey and the tree removal and landscaping plan.

<u>REFERENCE</u>	<u>DESCRIPTION</u>
5-040 (D) (1)	Site plan and/or architectural rendering of the proposed development depicting the location of lot restrictions. <i>13 copies, no smaller than 11 x 17, of the proposed site plan and architectural renderings.</i>
5-040 (D) (2)	A survey of the property signed and stamped by a State of Georgia certified land surveyor.
5-090 (A) (1)	That there are unique physical circumstances or conditions beyond that of surrounding properties, including: <ul style="list-style-type: none"><li>_____ irregularity,</li><li>_____ narrowness, or,</li><li>_____ shallowness of the lot size or shape, or,</li><li>_____ exceptional topographical or other physical conditions peculiar to the particular property.</li></ul>
5-090 (A) (2)	That because of such physical circumstances or conditions, the property cannot be developed in strict conformity with the provisions of the Land Development Code, without undue hardship to the property. <u>NOTE: Provide attachments illustrating conditions on surrounding properties and on the subject property, indicating uniqueness, etc.</u>
5-090 (B)	If this variance application is for a Height Variance, in addition to other requirements, the petitioner shall be required to: <ul style="list-style-type: none"><li>_____ Add two feet to each side yard setback for each one foot above 35 feet in height, and,</li><li>_____ Have safeguards consisting of sprinkler systems, smoke detectors and other fire protection equipment deemed necessary at the time by the Mayor and Council, and,</li><li>_____ Where a rear yard abuts a side yard of the adjacent lot, the petitioner shall be required to add two feet to the rear setback for each foot above 35 feet height.</li></ul>

The Planning Commission may require elevations or other engineering or architectural drawings covering the proposed development.

The Mayor and Council will not act upon a zoning decision that requires a site plan until the site plan has met the approval of the City's engineering consultant. (Note: Section 5-080 (A) requires, "Once the engineer has submitted comments to the zoning administrator, a public hearing shall be scheduled.")

The Applicant certifies that he/she has read the requirements for Site Plan Approval with Variance and has provided the required information to the best of his/her ability in a truthful and honest manner.

---

Signature of Applicant

---

Date



**CITY OF TYBEE ISLAND**

**CONFLICT OF INTEREST IN ZONING ACTIONS**

**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Have you within the past two (2) years made campaign contributions or gave gifts having an aggregate value of \$250.00 or more to a member of the City of Tybee Island Planning Commission, or Mayor and Council or any local government official who will be considering the rezoning application?

YES \_\_\_\_\_ NO \_\_\_\_\_

IF YES, PLEASE COMPLETE THE FOLLOWING SECTION:

NAME OF GOVERNMENT OFFICIAL	CONTRIBUTIONS OF \$250.00 OR MORE	GIFTS OF \$250.00 OR MORE	DATE OF CONTRIBUTION

IF YOU WISH TO SPEAK CONCERNING THE ATTACHED REZONING APPLICATION, THIS FORM MUST BE FILED WITH THE ZONING ADMINISTRATOR FIVE (5) DAYS PRIOR TO PLANNING COMMISSION MEETING IF CAMPAIGN CONTRIBUTIONS OR GIFTS IN EXCESS OF \$250.00 HAVE BEEN MADE TO ANY MEMBER OF THE PLANNING COMMISSION OR MAYOR AND COUNCIL.

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_

## **Sec. 5-080. Site plan approval.**

The site plan approval process is intended to provide the general public, planning commission, and mayor and council with information pertinent to how a new development will affect the surrounding area and the city as a whole. Where no variance is necessary for the intended project, or development, there is no evaluation process or set of regulations other than what is required to be shown on the site plan and listed upon the application. Where no variance is requested, site plan requirements are intended as a tool for public information. Where a variance and/or zoning action is requested in connection with a site plan, the standards applicable to the variance and/or zoning action applied for shall apply.

(A) *Process.* Upon submittal of the site plan, the zoning administrator will review the site plan for noticeable discrepancies and determine if there is a need to apply for other zoning actions. The site plan is then forwarded to the Chatham County Engineer. Once the engineer has submitted comments to the zoning administrator, a public hearing shall be scheduled. The public hearing shall be held regardless of whether the site plan meets the requirements of this Land Development Code. Until the applicant addresses all of the engineer's comments and the site plan is satisfactory, the mayor and council will not approve the plan. However, once the first public hearing is held, site plan approval may commence at any scheduled meeting of the mayor and council.

(B) *Other zoning actions.* Because special review, variances and map amendments require site plans, site plan review may be the first step in the permitting process, however, the site plan should identify any other zoning actions necessary in order for the intended development to be constructed so that a public hearing can be held on all such zoning actions simultaneously with the public hearing on the site plan. Site plan approval should encompass approval of all other zoning actions necessary to accomplish the development, however, if the intended development is to be altered from an approved site plan, additional public hearing and review is necessary if an additional special review, variance or map amendment is necessitated by the proposed alteration.

(C) *Site plan longevity.* After a site plan has been approved by the mayor and council it shall be valid for a period of 18 months from the date of approval. If a building permit is not issued within said 18 months, an extension of up to 90 days may be issued with the approval of the building and zoning department. In the absence of an extension or at the end of an extension, if a building permit has not been obtained, the site plan approval shall be void and a new application must be submitted for site plan approval.

For site plans approval prior to the effective date of this amendment, such plans shall be valid for 18 months from the effective date hereof and if no building permit is issued during that 18 months or a 90 day extension obtained, a new application for site plan approval must be submitted and the prior site plan approval shall be void.

(Ord. No. 2005-14, § 1, 5-26-2005)

## **Sec. 5-090. Variances.**

(A) *Standards.* After an application has been submitted to the zoning administrator, reviewed by the planning commission, and a public hearing has been held by the mayor and council, the mayor and council may grant a variance from the strict application of the provisions in this Land Development Code only if the following findings are made:

(1) That there are unique physical circumstances or conditions beyond that of surrounding properties, including irregularity, narrowness, or shallowness of the lot size or shape, or exceptional topographical or other physical conditions, peculiar to the particular property; and,

(2) That because of such physical circumstances or conditions, the property cannot be developed in strict conformity with the provisions of this Land Development Code, without undue hardship to the property.

(B) *Height variances.* For height variances, in addition to other requirements, the petitioner shall be required to add two feet to each side yard set back for each one foot above 35 feet in height and have safe-guard consisting of sprinkler systems, smoke detectors and any other fire protection equipment deemed necessary at the time by mayor and council. Where a rear yard abuts a side yard of the adjacent lot, the petitioner shall be required to add two feet to the rear setback for each foot above the 35 feet height, and have safe-guards consisting of sprinkler systems, smoke detectors, and any other fire protection deemed necessary at the time by mayor and council.

(C) *Variance longevity.* After a variance has been granted by the mayor and council it shall be valid for a period of 12 months from date of approval. Such approval is based on information provided in the application. Building

permits may only be granted for plans consistent with the approved application. Any deviation from the information submitted will require separate approval by the mayor and council.

(D) *[Reviewing variance applications.]* The staff, planning commission, and governing body, shall consider the factors stated herein in reviewing variance applications in taking action on a particular variance. In exercising the powers to grant variances, the mayor and council may attach any conditions to its approval which it finds necessary to accomplish the reasonable application of the requirements of these regulations.

(E) *[Application approval.]* Notwithstanding any other provisions of the Code of Ordinances, the staff of the community development department through its department head may approve applications for variances without the need of public hearings and without the need of review by the planning commission or the mayor and council as follows:

I. When either of the following circumstances exists:

- a. The proposed improvement of alteration will not result in an expansion of the existing footprint of the existing structure; or
- b. No additional encroachment into any setback shall be created by the proposed improvement, construction or addition.

II. When each of the following circumstances also exists:

- a. No encroachment or construction of habitable space or other prohibited improvements will exist beyond the flood elevation; and
- b. The requested improvements or construction will not violate existing zoning provisions.

This subsection shall have specific application to existing nonconforming structures as referred to in section 3-020.

If the staff of the building and zoning department finds that the request needs or should have additional review for any reason, it may request review by the planning commission and if the request is approved or rejected by the planning commission then the planning commission's determination shall control. For purposes of this section, a public hearing before the planning commission shall not be necessary. If the staff of the building and zoning department declines an applicant's request the applicant may apply for the granting of a variance which will follow the procedures applicable to variances in general specifically, those procedures described in sections 3-020 and 3-090 as well as the public hearing requirements referred to in section 5-060. In the event the staff request review by the planning commission and the planning commission rejects the request, the applicant may apply for the granting of a variance and follow the procedure applicable to such request before mayor and council.

### **Sec. 7-070. Tree protection during development.**

On each lot or tract where construction is ongoing pursuant to a validly issued building permit, protective barricades shall be placed around trees at the tree drip line which are to be retained, and shall remain in place throughout construction. The areas within the protective barricades shall remain free of all building materials, construction debris, vehicles, and development activities. Penalties for violation of this section shall be the same as found in section 7-090.

### **Sec. 3-080. Off-street parking requirements.**

(A) *Residential off-street vehicle parking requirements.* Off-street parking facilities shall be provided and maintained on site or within 400 feet of the site for all buildings, structures or premises being used in whole or in part for residential purposes, or for any other use permitted in residential districts.

- (1) *Residential dwelling units.* For every dwelling unit there shall be provided at least two off-street parking spaces.
- (2) *Nursing homes, hospitals.* One parking space for each five patient beds plus one space for each staff doctor, plus one space for each employee on the largest shift.
- (3) *Theaters, auditoriums, gymnasiums and other places of assembly.* One parking space for each four seats provided in the main auditorium or for each 50 square feet of floor area available for the accommodation of movable seats in the largest assembly room or area.
- (4) *Public and private elementary and secondary schools (except assembly halls, auditoriums and gymnasium used in conjunction therewith).* One parking space for each 200 square feet of gross floor area devoted to such use.

(B) *Control of access to residential uses.* In order to promote the safety of motorists and pedestrians, the following regulations shall apply:

- (1) A driveway opening which connects a residential lot with a public street shall not be greater than 25 feet in width.
  - (2) There shall be no more than two driveway openings on any residential lot of any width. Lots of less than 100 feet in width shall have no more than one driveway opening.
  - (3) Two driveway openings shall not be closer than 50 feet from each other on the same lot.
  - (4) No driveway opening shall be constructed within 25 feet from any street intersection.
  - (5) No curb on any city street or right-of-way shall be cut or otherwise altered without prior written approval of the zoning administrator.
  - (6) All newly constructed driveways shall be constructed of pervious materials, including, but not limited to, gravel, crushed coral, oyster shells, pervious concrete, and the like.
- (C) *Commercial off-street parking.* Off-street parking facilities shall be provided and maintained for all buildings or premises being occupied or used in whole or in part for commercial activity as follows:
- (1) One parking space per each 200 square feet of retail or commercial gross floor area.
  - (2) Restaurants, nightclubs, beer parlors and similar establishments shall provide one parking space for each four seats based on a maximum seating capacity of 15 square feet per person plus one space for each two employees. Maximum seating capacity is calculated on the entire seating square footage including outdoor seating area.
  - (3) Hotels, motels: one parking space for each room to be rented.
  - (4) Maritime district:
    - (1) Parking shall be in conformance with required dimensions of the C-1 zoning district.
    - (2) Handicapped parking shall be available and accessible.
    - (3) Dock operators must provide one parking space for every 20 linear feet of dock (one side) designated for recreational boaters. Docks leased to commercial boats must allow for one space per boat, plus one space per crew and one space per each four seats for charter passengers.
- (D) *Off-street parking dimensions.*

TABLE INSET:

Off-Street Parking Dimensions			
<i>Stall Depth</i>	<i>Aisle Width</i>	<i>Parking Angle</i>	<i>Traffic Direction</i>
9× 18 feet	12 feet	30 degrees	one-way
9× 18 feet	13 feet	45 degrees	one-way
9× 18 feet	18 feet	60 degrees	one-way
9× 18 feet	24 feet	90 degrees	two-way

- (E) *Exemptions from off-street parking requirements.*
- 1. Existing structures with 2,000 square feet or less of floor area that exist in a C-010 zoning district may expand the floor area up to 4,000 square feet without having to meet the off-street parking requirements as long as the structure is completely located within 1,000 feet of a municipal parking lot.
  - 2. All churches or places of religious worship shall be exempt from all off-street parking requirements.

## **ARTICLE 16. STORMWATER MANAGEMENT**

### **Sec. 16-010. Authority.**

The authority for this chapter is based on home rule provisions of the Ga. Const. art. IX, § II, ¶ 2-49. (Code 1983, § 5-4-2)

### **Sec. 16-020. Findings.**

- (a) Uncontrolled stormwater drainage/discharge may have a significant, adverse impact on the health, safety, the welfare of the city, and the quality of life of its citizens. More specifically, surface water runoff can carry pollutants and nutrients into receiving waters.
- (b) Uncontrolled stormwater drainage can increase the incidence of flooding and the level of floods which occur, endangering roads, other public and private property and human life.
- (c) Altered land surfaces can change the rate and volume of runoff.

(d) Adverse water quality and quantity consequences described above could result in substantial economic losses. Potential losses include, but are not limited to, increased water treatment costs, as well as state and federal fines associated with water quality violations.

(e) Many future problems can be avoided through proper stormwater management.

(f) Every parcel of real property, both public and private, either uses or benefits from the maintenance of the municipal/county separate storm sewer system.

(g) Current and anticipated growth will contribute to and increase the need for improvement and maintenance of the municipal/county separate storm sewer system.

(Code 1983, § 5-4-3)

### **Sec. 16-030. Objectives.**

The objectives of this article include the following:

(1) 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 municipal/county separate storm sewer system, including public (and private) facilities in the city's service area.

(2) Comply with state (DNR) and federal (EPA) stormwater regulations developed pursuant to the Clean Water Act. These requirements include:

a. Control the contribution of pollutants to the municipal/county separate storm sewer system by stormwater discharge associated with commercial and industrial activity and the quality of stormwater discharged from sites of commercial and industrial activity;

b. Prohibit illicit connections to municipal/county separate storm sewers;

c. Control discharge to municipal/county separate storm sewers of spills, dumping or disposal of materials other than stormwater; and

d. Control, through intergovernmental agreements, contribution of pollutants from one municipal/county system to another.

(Code 1983, § 5-4-4)

### **Sec. 16-040. Definitions.**

For the purposes of this article, unless specifically defined below, words or phrases shall be interpreted to give them the meaning they have in common usage and to give this article its most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connotes mandatory and not discretionary; the word "may" is permissive. Unless otherwise specified or it is apparent from the context, definitions herein will be the same as those in other city codes. For purposes of this article, the following terms, phrases and words, and their derivatives, shall have the meaning given herein:

*Accidental discharge* means a discharge prohibited by this article into the municipal/county separate storm sewer system, which occurs by chance and without planning or consideration prior to occurrence.

*Appeal authority* means the city council, which will review appeals to this article and render decisions and variances.

*Best management practices (BMPs)* means 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.

*Clean Water Act* means the Federal Water Pollution Control Act, as amended (33 USC 1251 et seq.).

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

*Department* means the city public works department which will be responsible for all stormwater management activities and implementation of the provisions of this article.

*Development activity* means:

(1) The division of a lot, tract or parcel of land into two or more lots, plots, sites, tracts, parcels, or other divisions by plat or deed;

(2) The construction, installation, or alteration of a structure, impervious surface, or drainage facility;

(3) Clearing, scraping, grubbing, or other activities significantly disturbing the soil, vegetation, mud, sand or rock of a site; or

(4) Adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, or otherwise disturbing the soil, vegetation, mud, sand or rock of a site.

*Director* means either the director of the city public works department or any of that person's duly authorized representatives.

*Discharge* means the release of treated or untreated water to the municipal/county separate storm sewer system.

*Easement* means an acquired legal right for the specific use of land owned by others.

*Illicit connection* means a connection to a municipal/county separate storm sewer system which results in discharge that is not composed entirely of stormwater runoff except discharge pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal/county separate storm sewer).

*Maintenance* means any action necessary to preserve stormwater management facilities in proper working condition, in order to serve the intended purposes set forth in this article or to prevent structural failure of such facilities.

*Municipal/county separate storm sewer system* means a conveyance or system of conveyances (including roads with drainage systems, highways, rights-of-way, municipal/county streets, catchbasins, curbs, gutters, ditches, 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).

*Person* means 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* means 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.

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

*Procedure* means a procedure adopted by the city to implement a regulation adopted under this article, or to carry out other responsibilities as may be required by this Code or other codes, ordinances or resolutions of the city or other agencies.

*Regulation* means any regulation, rule or requirement prepared by the department of public works adopted by the city pursuant to the requirements of this article.

*Sanitary sewer system* means 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* means any lot, plot, parcel or tract of land.

*Stormwater* means stormwater runoff, snowmelt runoff and drainage.

*Stormwater management* means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner to meet the objectives of this article and which shall include a system of vegetative or structural measures, or both, that control the increased volume and rate of stormwater runoff and water quality impacts caused by manmade changes to the land.

*Stormwater management facilities* means 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, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catchbasins, oil/water separators, sediment basins, natural and modular pavement.

*Stormwater runoff* means 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.

*Variance* means 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 article.

*Water quality* means those characteristics of stormwater runoff that relates to the physical, chemical, biological or radiological integrity of water.

*Water quantity* means those characteristics of stormwater runoff that relates to the rate and volume of the stormwater runoff.

(Code 1983, § 5-4-5)

**Sec. 16-050. Application of provisions; responsibility.**

(a) The provisions of this article shall apply throughout the corporate area of the city.

(b) The director of the department of public works or his designee shall be responsible for the coordination and enforcement of the provisions of this article.

(c) The department shall be responsible for the conservation, management, maintenance (where applicable), extension and improvement of the municipal/county separate storm sewer system, including activities necessary to control stormwater management programs included in the city's NPDES stormwater permit.

(d) The application of this article 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 statute. Other stormwater project improvements, as defined under state law, may be required.

(Code 1983, § 5-4-6)

**Sec. 16-060. Powers of the department.**

(a) The department shall have the power to administer and enforce all regulations and procedures adopted to implement this article, including the right to maintain an action or procedure in any court of competent jurisdiction to compel compliance with or restrain any violation of this article.

(b) The department can:

(1) Administer, coordinate and oversee acquisition, design, construction, and O&M of municipal/county stormwater facilities and conveyances;

(2) Establish or oversee establishment of development standards and guidelines for controlling stormwater runoff;

(3) Determine the manner in which stormwater facilities should be operated;

(4) Inspect private systems which discharge to the municipal/county separate storm sewer system;

(5) Advise the city council, other city departments and other local governments on issues related to stormwater;

(6) Protect facilities and properties controlled by the department and prescribe how they are used by others;

(7) Require new, increased, or significantly changed stormwater contributions to comply with the terms of this article;

(8) Develop programs or procedures to control the discharge of pollutants into the municipal/county separate storm sewer system; and

(9) Adopt and implement the stormwater management program for the city.

(Code 1983, § 5-4-7)

**Sec. 16-070. Stormwater runoff quantity controls for land-disturbing activities.**

(a) *Authority.* This section is enacted pursuant to the Charter of the city, and pursuant to those provisions of the Georgia Constitution providing home rule powers.

(b) *Findings.* Consistent engineering principles with respect to land development are needed in order to insure there are no significant adverse impacts on the health, safety and welfare of the citizens of the city and the quality of life of those citizens. Specifically, development should be planned and managed to reduce the risk of problems arising from surface water runoff, drainage and to facilitate the development of a well functioning infrastructure.

(c) *Conformity to regulations.* All land-disturbing activities shall conform to the minimum design requirements of this article, the subdivision regulations, flood damage control regulations or ordinances and all other provisions of the Land Development Code. The city will accept for maintenance the paving, storm drainage, sanitary sewer and water systems when designed and constructed in accordance with the engineering policies contained in this Code, and provided that the city is furnished with engineering drawings satisfactory to the city's engineer pre-development, and with drawings of the improvements, once installed, as built, being accepted by the city.

(d) *Drainage calculations and a plan submitted with permit application.* Drainage calculations and a plan shall be submitted along with any application for a land clearing, disturbance or excavation permit, or in connection with any application for site plan approval, special review or for the subdivision of property, including minor subdivisions, and with

any applications for building permits on previously undeveloped land or land which is to be cleared for new construction or substantial renovation. The mayor and council may waive the requirement of drainage calculations and a plan in connection with the subdivision of completed duplexes.

(e) *Applicability of engineering specifications.* For all land-disturbing activities, the engineering specifications required by article 10, subdivision regulations, of the Land Development Code and this article shall be applicable.

(f) *Water quality controls.* Water quantity controls will be provided as part of all development pursuant to the provisions of article 10, subdivision regulations, and article 8, flood damage control, of the Land Development Code.

(g) *Exceptions.* The director may allow stormwater runoff that otherwise is of unacceptable quantity or which would be discharged in volumes or at rates in excess of those otherwise allowed by article 10, subdivision regulations, and article 8, flood damage control, of the Land Development Code, to be discharged into drainage facilities off-site of the development, provided the following conditions are met:

(1) Off-site drainage facilities and channels leading to them are designed, constructed and maintained in accordance with requirements of all ordinances;

(2) Adequate provision is made for sharing of construction, maintenance and operating costs of facilities; and

(3) It is not feasible to completely manage runoff on site in a manner that meets the design and performance standards found in the city Subdivision Regulations or Drainage Ordinance Design Manuals.

(Code 1983, § 5-4-8)

### **Sec. 16-080. Prohibitions; exceptions; accidental discharge.**

(a) It is unlawful for any person to throw, drain, run, or otherwise discharge to any component of the municipal/county separate 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 stormwater or surface water as herein authorized.

(b) The director may exempt the following from the prohibition provision above:

(1) Water line flushing performed by a government agency, diverted stream flows, rising groundwaters, and polluted groundwater infiltration.

(2) Unpolluted pumped groundwater.

(3) 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 washwater.

(4) Discharge or flow from firefighting.

(5) Other unpolluted water.

(c) In the event of an accidental discharge or an unavoidable loss to the municipal/county separate storm sewer system of any material or substance other than stormwater runoff, the person concerned shall inform the city department of public works and all other impacted entities immediately but no longer than two hours of 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/county separate storm sewer system and receiving streams. The person shall also take immediate steps to ensure no recurrence of the discharge.

(d) It is unlawful for any person to cause or permit any stormwater to flow from their property onto the property of another person, unless such stormwater naturally flowed thereon prior to any development activity.

(e) It is unlawful for any person to interrupt the flow of any stormwater runoff from adjacent property onto their property by any development activity.

(f) It is unlawful for any person to cause or permit an alteration or interference with the city's stormwater management facilities, including but not limited to pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catch basins, oil/water separators, sediment basins, natural and modular pavements, without first acquiring written permission from the director.

(Code 1983, § 5-4-9)

### **Sec. 16-090. Illicit connections.**

(a) 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 director, based on the exemptions listed in section 22-155(b), to the municipal/county separate storm sewer system.

(b) Improper connections in violation of this article must be disconnected and redirected, if necessary, to the city's sanitary sewer system upon approval by the director of the public works department.

(Code 1983, § 5-4-10)

### **Sec. 16-100. Stormwater management facilities; maintenance and inspection.**

(a) *Privately owned facilities.* Any stormwater management facility or BMP which services a single lot or commercial and industrial development shall be privately owned and maintained. The owner shall maintain a perpetual, nonexclusive easement which allows for access for maintenance.

(b) *Publicly owned facilities.* All other stormwater management control facilities and BMPs shall be publicly owned and/or maintained only if accepted for maintenance by the city.

(c) *Dedication of privately owned facilities.* The director may require dedication of privately owned stormwater facilities which discharge to the municipal/county separate storm sewer system to the city.

(d) *Inspection schedules.* The department director shall determine inspection schedules necessary to enforce the provisions of this article.

(e) *Director permitted to inspect properties.* The director or his designee, bearing proper credentials and identification, shall be permitted to enter, in accordance with state and federal law, all properties for regular inspections, periodic investigations, observation, measurement, enforcement, sampling and testing, in accordance with provisions of this article. The director or his designee shall duly notify the owner of said property or, the representative on site, except in the case of an emergency.

(f) *Director permitted to repair, maintain facilities within easements.* The director or designated employee of the department bearing proper credentials and identification, shall be permitted to enter, in accordance with state and federal law, all properties for which the city holds a negotiated easement for repairs, maintenance and other purposes related to any portion of the stormwater management facilities lying within said easement. The director or his designee shall duly notify the owner of said property or the representative on site, except in the case of an emergency.

(g) *Conformity of measurements, tests, etc.* Measurements, tests and analyses performed by the department or required of any discharger to the municipal/county separate storm sewer system shall be in accordance with 40 CFR 136, unless another method is approved by the director.

(h) *Right to protect the public.* If, after inspection, the condition of a facility presents an immediate danger to the public health or safety because of unsafe conditions or improper maintenance, the city shall have the right, but not the duty, to take action as may be necessary to protect the public and make the facility safe.

(i) *Violation of article.* If, after inspection, the condition of a facility results in a violation of this article, the owner of the facility will be notified of the violation.

(Code 1983, § 5-4-11)

#### **Sec. 16-110. Penalties.**

(a) Upon determination that a violation of this article has occurred, the director of the department shall give written notice to the accused violator within three days. This notice shall specify the nature and evidence of violation and the potential penalty involved and the amount of time in which to correct deficiencies, if appropriate.

(b) Violation of the provisions of this article constitutes an infraction subject to a penalty to be issued by a court of competent jurisdiction. The city may institute appropriate action or proceedings at law or equity for the enforcement of this article or to correct violations of this article. Any court of competent jurisdiction may have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief. Each day of noncompliance is considered a separate offense. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunction relief.

(Code 1983, § 5-4-12)

#### **Sec. 16-120. Variances.**

(a) The director may grant a variance from requirements of this article if exceptional circumstances applicable to a site exist such that strict adherence to the provisions of the article will result in unnecessary hardship and will not fulfill the intent of the article.

(b) The director may grant a variance from requirements of this article if the proposed development activity will not:

- (1) Change the rate or volume of runoff significantly;
- (2) Have a significant, negative impact on any wetland, watercourse, or water body; or
- (3) Contribute to degradation of water quality.

(c) A written request for a variance shall be required and shall state the specific variance sought and the reasons, with supporting data, a variance should be granted. The request shall include all information necessary to evaluate the proposed variance.

(d) The director will conduct a review of the request for a variance within ten working days of receiving the request.

(Code 1983, § 5-4-13)

#### **Sec. 16-130. Appeals.**

(a) Any person aggrieved by a decision of the director (including any decision with reference to the granting or denial of a variance from the terms of this article) may appeal same by filing a written notice of appeal with the director within five days of the issuance of said decision by the director.

(b) The director can then reverse his decision or send this notice to the city manager. A notice of appeal shall state the specific reasons why the decision of the director is alleged to be in error, and the director shall prepare and send to the city manager and appellant a written response to said notice of appeal within ten days of receipt of the notice of appeal.

(c) The city manager shall consider the appeal, acquire additional information as needed, and provide to the director and appellant his decision within ten calendar days. The appellant may appeal the city manager's decision to the city council if desired by filing a written notice thereof to the city clerk within ten days of receipt of the city manager's decision.

(d) All appeals to the city council 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 chairperson of the city council. The city council shall then make its findings within ten days of the appeal hearing.

(e) If either the appellant or director is dissatisfied with the city council's decision, he can appeal said decision to the superior court.

(Code 1983, § 5-4-14)

**Sec. 16-140. Cooperation with other governments.**

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

(Code 1983, § 5-4-15)

**Sec. 16-150. Property owner liability--Supplemental charges.**

Any person in violation of any portion of this article shall pay the city for all costs associated with the violation including, but not limited to, containment, cleanup, injury, death, legal and other costs.

(Code 1983, § 5-4-16)