

18-5 VERIFICATION OF ADEQUATE DESIGN, EASEMENTS AND MAINTENANCE

A. Verification of Adequacy:

Analysis of all elements of design shall be performed by the registered professional design engineer. The following outline is provided to ascertain that critical elements of design are in workable compliance with the aims of design:

- (1) Volume of retention for the total project;
- (2) Tributary (Q) peak runoff to basin;
- (3) Balanced maximum outflow rate from the low-flow structure;
- (4) Ratios of inflow to outflow;
- (5) Sizing of the overflow facilities;
- (6) Permeability rates, and geotechnical data where applicable;
- (7) Stability of dikes;
- (8) Safety features; and
- (9) Maintenance features.

For projects up to two hundred (200) acres, routing calculations for all ponds shall be submitted in legible tabulated form with documented verification of adequacy according to scope and complexity of design. Proof of adequacy of volume of retention and sizing computations for low-flow structures shall also be submitted and certified by the design engineer. Features of stability and safety may also need to be documented if the scope of the project requires special attention in this area of design.

B. Stormwater Management Detention/Retention Easements:

Two (2) types of easements shall be provided in plans for stormwater detention/retention facilities.

(1) Maintenance Easement:

- i. All stormwater management facility reservoirs, with the exception of parking lot and roof detention, shall be enclosed by a maintenance easement. The limits of the said easement shall extend ten (10) feet beyond the top elevation of the reservoir.

- ii. When a stormwater management facility is adjacent to a public right-of-way, the limits of the easement shall extend twenty-five (25) feet beyond the elevation of the reservoir on the public right-of-way side.

(2) Drainage Easement:

A minimum fifteen (15) feet wide drainage easement shall be provided within the reservoir area connecting the tributary pipes and the discharge system along the best possible routing of a piping system for possible future elimination of managed stormwater.

C. Maintenance of Stormwater Detention/Retention Facilities and Liability:

- (1) All final plats shall have a section that details that the City reserves the right to require the owners of all drainage facilities to perform needed maintenance to prevent potential flooding hazards.
- (2) Operation and maintenance of any existing and future stormwater management facility (detention or retention basin) is the responsibility of the property owner(s).
- (3) Any liability associated with the design, performance and operation of the facility remains with the owner and the project design engineer. The project design engineer shall be responsible for disclosing information regarding and instructing the owner of required operation and maintenance of the facility(s). Prior to final plat approval by the Planning Commission, a completed *Stormwater Management Indemnification Form* (Appendix) shall be submitted to the City. Said agreement shall require among other things that the landowner, its successors, and, or assigns or any property owner who discharges to or benefits from the maintenance or improvements to the real property shall, annually, inspect the stormwater facility and submit said inspection report to the Environmental Programs Manager or designee of the Building Official. The landowner, its successors, and , or assigns of any property owner within the subdivision who discharges to or benefits from the maintenance or improvement to the real property shall have a Qualified Credential Professional (QCP) inspect the facility at least once every three years. Upon completion of the inspection the QCP shall submit to the City of Daphne in report form a copy of said inspection detailing but not limited to the following items: facility as-built engineered floor elevation, existing floor elevation, sedimentation, vegetative cover, debris, fencing (if required), outlet structure and inlets. The facility shall be subject to at least an annual inspection by the City to ensure that it functions in accordance with its original design criteria and to follow up on submitted inspection and/or respond to citizen complaints. Entry to the stormwater management facility shall be granted by the owner, developer or property owners association.

- (4) Any defects discovered by the City during the annual inspection process shall be furnished to the owner of the stormwater management facility in writing by the City. The notice shall be in the form of Certified Mail-Return Receipt Required, through the United States Postal Service. The owner shall have fifteen (15) business days from the date of mailing of said notice by the City to submit a written plan detailing the actions that will be instituted to correct noted defects and thirty (30) business days thereafter to implement a corrective plan. If said repairs involve engineered practices, then the plan shall be signed by an engineer licensed in the State Alabama. Also, if the repair plan results in land disturbance greater than one thousand (1,000 sq. ft.) square feet, a City of Daphne Land Disturbance Permit (Ordinance # 2008-54) shall be required. The City may, at its discretion, allow the owner additional time as deemed appropriate for the corrective work to be performed. Failure by the owner to perform the corrective action may result in enforcement by the City which may include, but not be limited to, the issuance of a Municipal Offense Citation and or the declaration of the facility as a public nuisance.

D. Abatement of Detention/Retention Facility Public Nuisance:

It shall be unlawful for any person to maintain a public or private nuisance upon any public or private property.

(1) Resolution of Abatement:

Whenever any such public nuisance occurs, the City Council may, by resolution, declare the same to be a public nuisance and order its abatement. The resolution shall refer to the street by the name under which it is commonly known, describe the property upon which, or in front of which, the public nuisance exists, by giving a legal description thereof and no other description of the property shall be required. Any number of streets, sidewalks or parcels of property may be included in one and the same resolution.

(2) Notice of Declaration:

- i. After the passage of the resolution, notice of a public hearing on the matter shall be given by certified mail, return receipt requested, mailed a minimum of thirty (30) days prior to the date of the public hearing and shall inform the owner of the time, date and place of the public hearing and reason therefore. The notice shall be mailed to the owner of the property as it appears of record in the Baldwin County Revenue Commissioner's office.
- ii. Notice shall also be given by publication in a local newspaper of general circulation once a week for two (2) consecutive weeks. The first notice shall be

published at least fourteen (14) days prior to the date of the scheduled public hearing.

- iii. In addition thereto, signs shall be conspicuously posted at sixty-foot intervals along the frontage of the property. The caption of the signs shall not be less than one (1) inch in height and shall be in substantially the same form as expressed in the public notice.
- iv. The notice shall be posted at least seven (7) days prior to the time of the hearing of the City Council.

(3) Hearing on Nuisance Declaration:

If objections are filed with the City Clerk's office prior to the time stated in the notice, the City Clerk's office shall hear and consider all evidence, objections and protests regarding the proposed compliance issues. The council may continue the assessment hearing from time to time, as needed. Upon the conclusion of an assessment hearing, the Council, by resolution, shall decide whether a public nuisance exists and, if so, shall order it to be removed or abated with respect to any property or part thereof described. The City Council, by passage of the resolution, shall be deemed to have acquired jurisdiction to proceed and either to perform or have performed the work of removal or abatement with respect to such property or part thereof. The decision of the governing body on the matter shall be deemed final and conclusive.

(4) Order for Abatement:

- i. After the Council passes the resolution finding the conditions of the property to be a public nuisance and ordering its abatement, all employees and duly authorized agents of the City are hereby expressly authorized to enter upon private property for that purpose.
- ii. The City may, at its option, engage and authorize city employees and/or private contractors, companies, enterprises or individuals to abate and remove the nuisance. The Council, by resolution, shall designate the City employees and/or private contractors, companies, enterprises or individuals who may perform the work.
- iii. Any property owner shall have the right to abate any public nuisance at his own expense, providing the same is done prior to the time City employees or agents commence work.

(5) Liability Insurance:

Private contractors engaged by the City in accordance with this article shall be required to provide proof of liability insurance in the amounts routinely required by the City for similar projects and will accept responsibility for any damages to subject lots and surrounding areas which may occur during the cutting/cleaning of subject property. The insurance policy shall contain an endorsement that the same shall not be canceled without giving to the City ten (10) days written notice.

(6) Billing and Collection:

- i. The City shall keep an account of the cost of abating each nuisance in front of or on each separate lot or parcel of land where work is completed by it or its employees, or by a duly authorized private contractor, company, enterprise or individual, and shall render a written itemized report to the City Council showing the cost of removing a particular public nuisance; provided that before the report is submitted to the governing body, a copy of the same shall be posted for at least five (5) days prior thereto on or near the chamber door of the City Council, together with a notice of the time when the report shall be submitted to the City Council for confirmation.
- ii. Prior to the time fixed for the City Council to receive and consider the report, the administrative appeal process of filing, hearing and ruling upon complaints and objections shall have been completed. Contested assessments shall be appealed to the City Council, at the property owner's request upon filing a timely notice with the City Clerk at least seven (7) days prior to the time fixed by the City Council to receive and consider the report.
- iii. The cost of abating such nuisance in front of or upon the various parcels of land mentioned in the report shall constitute a special assessment and as thus made and confirmed shall constitute a lien on the property for the total amount of such assessment along with any administrative costs, respectively. After confirmation of the report, the City shall attempt to collect the lien. If this attempt by the City proves futile, a copy of the lien confirmation report will be turned over to the Baldwin County Revenue Commissioner who, under the "optional method of taxation," is charged with the collection of the City's municipal taxes pursuant to Code of Alabama, Sections 11-51-40 through 11-51-74, (1975). It shall be the duty of the Baldwin County Revenue Commissioner to add the amount of the respective lien to the next regular bill for taxes levied against the respective lots and parcels of land, and thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected and shall be subject to the same penalties and the same procedure under