

# City of Valdosta Land Development Regulations

## Chapter 310 Stormwater Management

### Article 1 Post-development Stormwater Management

#### Division 1 General Provisions

#### Section 310-1 Purpose and Intent

- (A) The purpose and intent of this article is to protect, maintain, and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and non-point source pollution associated with new development and redevelopment. Proper management of post-development stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, environment, and general welfare of the public; and protect water and aquatic resources. This article seeks to meet that purpose through the following objectives:
- (1) Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
  - (2) Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, streambank erosion, non-point source pollution and increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats;
  - (3) Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
  - (4) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
  - (5) Encourage the use of non-structural stormwater management and stormwater better site design practices, such as the preservation of open space and other conservation areas, to the maximum extent practicable;
  - (6) Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and non-structural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety or to the integrity of downstream water resources; and
  - (7) Establish administrative procedures for the submission, review, approval, and disapproval of stormwater management plans and for the inspection of approved active projects, and long-term follow up.

#### Section 310-2 Applicability

- (A) This article shall be applicable to all land development; including, but not limited to, site plan applications, subdivision applications, and grading applications, unless otherwise exempted. The provisions of this article shall apply to any new development or redevelopment site that meets one or more of the following criteria:
- (1) New development that involves the creation of 5,000 square feet or replacement of 10,000 square feet or more of impervious cover, or that involves other land development activities of 1 acre or more;
  - (2) Redevelopment that includes the creation or addition of 5,000 square feet or more of impervious cover, or that involves other land development activity of 1 acre or more;

## City of Valdosta Land Development Regulations

- (3) Any new development or redevelopment, regardless of size, that is defined by the City Engineer to be a "hotspot" land use (The Georgia Stormwater Management Manual (GSWMM) defines a hotspot land use based on water quality criteria, and the City of Valdosta can also consider flooding conditions to define hotspot areas where known flooding conditions and existing structural limitations should be considered)
  - (4) Land development activities that are smaller than the minimum applicability criteria set forth in paragraphs (1) and (2) of this subsection, if such activities are part of a larger common plan of development; even though multiple, separate, and distinct land development activities may take place at different times on different schedules.
- (B) The following activities are exempt from this article:
- (1) Development of individual single-family residential lots that involve the creation of less than 5,000 square feet of impervious cover or that involves other land development activities less than 1 acre and are not part of a subdivision or phased development project;
  - (2) Additions or modifications to existing single-family residential structures that involve the creation of less than 5,000 square feet of impervious cover or that involves other land development activities less than 1 acre;
  - (3) Agriculture or silviculture land management activities within areas zoned for such activities;
  - (4) Land disturbing activities conducted for the purpose of restoration of streams, streambanks, riparian zones, or other environmentally protected areas; and
  - (5) Repairs to any stormwater management facility or practice deemed necessary by the City Engineer.

### **Section 310-3 Responsibility for Administration**

The City Engineer shall administer, implement, and enforce the provisions of this article.

### **Section 310-4 Compatibility with Other Regulations**

This article is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this article 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 310-5 Stormwater Design Manual**

The City Engineer shall utilize the policy, criteria, and information, including technical specifications and standards, set forth in the Georgia Stormwater Management Manual, as now and hereafter amended, and any relevant local requirements for the proper implementation of the requirements of this article. The manual may be updated and expanded periodically, based on improvements in science, engineering, monitoring, and local maintenance experience. This includes any addenda or updates to the local design guidelines as approved by the Mayor and City Council.

### **Sections 310-6 through 310-10 Reserved**

# City of Valdosta Land Development Regulations

## Division 2 Permit Procedures and Requirements

### Section 310-11 Stormwater Management Permit Required

- (A) No owner or developer shall perform any land development activities without first obtaining a stormwater management permit and meeting the requirements of this article prior to commencing the proposed activity.
- (B) Unless specifically exempted by this article, any owner or developer proposing a land development activity shall submit a stormwater management permit application to the City Engineer prior to initiating any land-disturbance.
- (C) Applications for a stormwater management permit shall be on a form provided by the City Engineer for that purpose and shall be accompanied by the following items in order to be considered:
  - (1) Stormwater concept plan and consultation meeting certification in accordance with Section 310-12;
  - (2) Stormwater management plan in accordance with Section 310-13;
  - (3) Inspection and maintenance agreement in accordance with Section 310-14, if applicable;
  - (4) Maintenance surety in accordance with Section 310-15, if applicable;
  - (5) Permit application and plan review fees in accordance with Section 310-17;
  - (6) Construction drawings, stormwater hydrology, hydraulics report and site analysis;
- (D) Applications for a stormwater management permit that are incomplete or which otherwise do not meet the criteria set forth above, as determined by the City Engineer, shall not be reviewed by the City of Valdosta.

### Section 310-12 Stormwater Concept Plan and Consultation Meeting

- (A) Before any stormwater management permit application is submitted, the owner or developer shall meet with the City Engineer for a consultation meeting on a concept plan for the post-development stormwater management system to be utilized in the proposed land development project. This consultation meeting shall take place prior to the preliminary plan submission of any development or redevelopment plan. The purpose of this meeting is to discuss the post-development stormwater management measures necessary for the proposed project; as well as to discuss and assess constraints, opportunities, and potential ideas for stormwater management designs before the formal site design engineering is commenced.
- (B) To accomplish this goal, the following information shall be included in the concept plan, which shall be submitted to the City Engineer a minimum of 10 business days prior to the meeting:
  - (1) Existing conditions/proposed site plans. Existing conditions and proposed site layout sketch plans that illustrate, at a minimum, existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (when available); boundaries of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas, and other impervious surfaces.
  - (2) Natural resources inventory. A written or graphic inventory of the natural resources located on the site and within a ¼-mile radius of the site as they exist prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site; as well as the location and boundaries of other natural feature protection and conservation areas such as wetlands,

## City of Valdosta Land Development Regulations

lakes, ponds, floodplains, stream buffers, and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features.

- (3) Post-development stormwater management system concept plan. A written or graphic concept plan of the proposed post-development stormwater management system, including: preliminary selection and location of proposed structural stormwater controls; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.
- (4) Local watershed plans, greenspace program, greenway plan, park development plans, and any relevant resource protection plans will be consulted in the discussion of the concept plan.

### Section 310-13 Stormwater Management Plan Requirements

- (A) The stormwater management plan shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this article, including the performance criteria set forth in Division 3 of this article.
- (B) The stormwater management plan shall be in accordance with the criteria established in this Section and must be submitted with the stamp and signature of a professional engineer licensed in the State of Georgia, who is qualified to address stormwater issues and who must verify that the design of all stormwater management facilities and practices comply with the submittal checklists(s) found in the Georgia Stormwater Management Manual.
- (C) The stormwater management plan must ensure compliance with the requirements and criteria in this article and demonstrate that opportunities are being taken to eliminate adverse post-development stormwater runoff impacts from the development by ensuring a zero net increase. The plan shall consist of maps, narrative, and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater management system. The plan shall include all of the information required in the site plan checklist found in the Georgia Stormwater Management Manual. At a minimum, this includes:
  - (1) Street address and legal description of site.
  - (2) Vicinity map.
  - (3) Existing conditions hydrologic analysis. The existing condition hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of existing site conditions for the subject parcel with the drainage basin boundaries indicated; acreage, soil types, and land cover of areas for each sub-basin affected by the project; all perennial and intermittent streams and other surface water features; all existing stormwater conveyances and structural control facilities; direction of flow and exits from the site; analysis of runoff provided by off-site areas upstream of the project site; and methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. For new developments, the base date shall be the year in which this article was originally adopted. For redevelopment sites of less than 5,000 square feet of impervious, the predevelopment conditions are to not make the stormwater runoff rates, volumes and velocities any worse than they currently exist.
  - (4) Post-development hydrologic analysis. The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of developed site conditions with the post-development drainage basin boundaries indicated; total area of post-development impervious surfaces and other land cover areas for each sub-basin affected by the project; calculations for determining the runoff volumes that need to be addressed for each sub-basin for the development project to meet the post-development

## City of Valdosta Land Development Regulations

stormwater management performance criteria in Division 3 of this article; location and boundaries of proposed natural feature protection and conservation areas; documentation and calculations for any applicable site design credits that are being utilized; methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. If the land development activity on a redevelopment site constitutes more than 50% of the site area for the entire site, then the performance criteria in Division 3 of this article must be met for the stormwater runoff from the entire site.

- (5) Where the existing development is to be redeveloped, the applicant should attempt to make every reasonable effort to provide water quality and detention for the total land area of the redeveloped site, which may include but not be limited to underground detention and subsurface water quality treatment.
- (6) Stormwater management system. The description, scaled drawings, and design calculations for the proposed post-development stormwater management system shall include a map and/or drawing of the stormwater management facilities, including the location of non-structural site design features and the placement of existing and proposed structural stormwater controls, including design water surface elevations, storage volumes available from zero to maximum head, location of inlet and outlets, location of bypass and discharge systems, and all orifice/restrictor sizes; a narrative describing how the selected structural stormwater controls will be appropriate and effective; cross-section and profile drawings and design details for each of the structural stormwater controls in the system, including supporting calculations to show that the facility is designed according to the applicable design criteria; a hydrologic and hydraulic analysis of the stormwater management system for all applicable design storms (including stage-storage or outlet rating curves, and inflow and outflow hydrographs); documentation and supporting calculations to show that the stormwater management system adequately meets the post-development stormwater management performance criteria in Division 3 of this article; drawings, design calculations, elevations and hydraulic grade lines for all existing and proposed stormwater conveyance elements including stormwater drains, pipes, culverts, catch basins, channels, swales, areas of overland flow; and BMP for post-construction clog prevention on all outlet control orifices with a diameter of 4" or less; and where applicable, a narrative describing how the stormwater management system corresponds with any watershed protection plans and/or local greenspace program, greenway plans or any other relevant resource protection plans.
- (7) Post-development downstream analysis. A downstream peak flow analysis that includes the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. At a minimum, the analysis of downstream conditions in the report shall address:
  - (a) A map of each and every point or area along the project site's boundaries at which runoff will exit the property;
  - (b) Delineation of all downstream structures and property adjacent or within the flow path of the downstream flow analysis;
  - (c) The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area shall extend downstream from the project to a point in the drainage basin where the project area is 10% of the total basin area;
  - (d) In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes;
  - (e) The analysis shall be in accordance with the *Georgia Stormwater Management Manual*.
  - (f) Where both channel protection volume and water quality volume requirements have been met, the City Engineer may modify or waive the requirements of Section 310-13(C)(7) for post-development downstream analysis on projects where the

## City of Valdosta Land Development Regulations

Stormwater Management Report demonstrates that post-development conditions provide a 15% reduction of post-development peak flows from pre-development peak flows for the 2-year, 5-year, 10-year, 25-year, 50-year, and 100-year storm events.

- (8) Construction-phase erosion and sedimentation control plan. An erosion and sedimentation control plan which satisfies the requirements of Chapter 306 of this LDR. The plan shall also include information on the sequence/phasing of construction and temporary stabilization measures and temporary structures that will be converted into permanent stormwater controls.
- (9) Landscaping and open space plan. A detailed landscaping and vegetation plan describing the existing and proposed trees, landscaping and other vegetation within and adjacent to stormwater management facilities and practices. The landscaping plan must also include: the arrangement of planted areas, natural and greenspace areas and other landscaped features on the site plan; information necessary to construct the landscaping elements shown on the plan drawings; descriptions and standards for the methods, materials and vegetation that are to be used in the construction; density of plantings; descriptions of the stabilization and management techniques used to establish vegetation; and a description of who will be responsible for ongoing maintenance of vegetation for the stormwater management facility and what practices will be employed to ensure that adequate vegetative cover is preserved.
- (10) Operations and maintenance plan. Detailed description of ongoing operations and maintenance procedures for stormwater management facilities and practices to ensure their continued function as designed and constructed or preserved. These plans will identify the parts or components of a stormwater management facility or practice that need to be regularly or periodically inspected and maintained, and the equipment and skills or training necessary. The plan shall include an inspection and maintenance schedule, maintenance tasks, responsible parties for maintenance, funding, access, and safety issues. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
- (11) Maintenance access easements. The applicant must ensure adequate access from public right-of-way to stormwater management facilities and practices requiring regular maintenance at the site for the purpose of inspection and repair by securing all the maintenance access easements needed on a permanent basis. Such access shall be sufficient for all necessary equipment for maintenance activities. Upon final inspection and approval, a plat or document indicating that such easements exist shall be recorded and shall remain in effect even with the transfer of title of the property. Regular maintenance shall be the responsibility of the property owner's association or the property owner.
- (12) Inspection and maintenance agreements. Unless an on-site stormwater management facility or practice is dedicated to and accepted by the City Engineer, as provided in Section 310-14, the applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management facility or practice in accordance with Section 310-14.
- (13) Evidence of acquisition of applicable environmental permits. The applicant shall certify and provide documentation to the City Engineer that all other applicable environmental permits have been acquired for the site prior to approval of the stormwater management plan.

### **Section 310-14 Stormwater Management Inspection and Maintenance Agreements**

- (A) Prior to the issuance of any permit for a land development activity requiring a stormwater management facility or practice hereunder (examples not limited to stormwater pools, stormwater wetlands, and bioretention areas) and for which the City Engineer requires ongoing maintenance, the applicant or owner of the site must, unless an on-site stormwater management facility or practice is dedicated to and accepted by the City Engineer, execute an inspection and maintenance

## City of Valdosta Land Development Regulations

agreement, and/or a conservation easement, if applicable, that shall be binding on all subsequent owners of the site.

- (B) The inspection and maintenance agreement, if applicable, must be approved by the City Engineer prior to plan approval, and recorded in the office of the Lowndes County Clerk of Superior Court, real estate division upon final plat approval.
- (C) The inspection and maintenance agreement shall identify by name or official title the person(s) responsible for carrying out the inspection and maintenance. Responsibility for the operation and maintenance of the stormwater management facility or practice, unless assumed by a governmental agency, shall remain with the property owner and shall pass to any successor owner(s). If portions of the land are sold or otherwise transferred, legally binding arrangements shall be made to pass the inspection and maintenance responsibility to the appropriate successors in title. These arrangements shall designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance.
- (D) The inspection and maintenance agreement shall include a schedule for when and how often routine inspection and maintenance will occur to ensure proper function of the stormwater management facility or practice. The agreement shall also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance and shall also include remedies for the default thereof. Copies of routine inspection summaries will be submitted in accordance with the approved maintenance plan.
- (E) In addition to enforcing the terms of the inspection and maintenance agreement, the City engineer may also enforce all of the provisions for ongoing inspection and maintenance as set forth in Division 5.
- (F) The Mayor and City Council may, upon recommendation by the City Engineer, accept, in lieu of an inspection and maintenance agreement, the dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

### **Section 310-15 Maintenance Surety**

- (A) Prior to issuance of a stormwater management permit under this article, the applicant shall provide to the city sufficient financial security to guarantee the maintenance and performance of stormwater management facilities for a period of two years after the final plat is recorded or a certificate of occupancy is issued, as described in the applicant's approved stormwater management plan. The applicant's financial guarantee may be any of the following: (1) an escrow of funds with the city; (2) an escrow with a bank or savings and loan association upon which the city can draw funds; (3) an irrevocable letter of commitment or credit upon which the city can draw funds; (4) a certificate of deposit with assignment letter; and (5) any other form of guarantee approved by the Mayor and City Council that will satisfy the objectives of this article. The guarantee shall be in an amount to secure the full costs, as determined by the City Engineer, of maintaining, repairing or replacing the stormwater management facilities required by this article.
- (B) In the event the applicant or responsible person fails to ensure adequate maintenance pursuant to the approved stormwater management plan, the City Engineer shall take those steps necessary to correct the defective maintenance pursuant to the provisions of Section 310-54. At the option of the City, after providing notice as provided in Section 310-54(A), the City Engineer may call the bond required in paragraph (A) of this Section to the extent that the proceeds of such bond are sufficient to reimburse the cost to the City of hiring a contractor to bring the site into full compliance with this Chapter.

# City of Valdosta Land Development Regulations

## Section 310-16 Application Procedure

- (A) Applications for stormwater management permits shall be filed with the City Engineer.
- (B) Permit applications shall include the items set forth in subsection 310-11(C) of this article (two copies of the stormwater management plan and the inspection maintenance agreement, if applicable, shall be included).
- (C) The City Engineer shall notify the applicant in writing within 30 days of receipt of the complete application whether the application, stormwater management plan, and inspection and maintenance agreement are approved or denied. Any complete application for which no action has been taken after 30 business days or more shall be deemed to be approved.
- (D) If the permit application, stormwater management plan, and inspection and maintenance agreement are denied, the written notification from the City Engineer shall specify the reasons for the denial, and the applicant may then revise any item not meeting the requirements hereof and resubmit the same. Such resubmittal shall be treated as a new application; however, no new application fee shall be required.
- (E) Upon a finding by the City Engineer that the stormwater management permit application, stormwater management plan, and inspection and maintenance agreement, meet the requirements of this article and the performance criteria set forth in Division 3, the City Engineer shall issue a stormwater management permit for the land development project, provided all other legal requirements for the issuance of such permit have been met.
- (F) Notwithstanding the issuance of the stormwater management permit, in conducting the land development project, the applicant or other responsible person shall be subject to the following requirements:
  - (1) The applicant shall comply with all applicable requirements of the approved plan and this article and shall certify that all land clearing, construction, land development, and drainage will be completed according to the approved plan;
  - (2) The land development project shall be conducted only within the area specified in the approved plan;
  - (3) No changes may be made to an approved plan without review and written approval by the City Engineer; and
  - (4) Upon completion of the land development project, the applicant or other responsible person shall submit the engineer's report and certificate and as-built plans pursuant to Section 310-42 of this article.
- (G) A violation of any provision of this article will be grounds for terminating a permit granted by the city. Should it be determined that a permit was issued pursuant to an incomplete application or an application containing a false material statement, or that a permit has been erroneously issued in violation of this article, the City Engineer shall revoke the permit.

## Section 310-17 Permit Application Fees

The permit fee for review of any stormwater management application shall be based on the fee structure established by the Mayor and City Council. The total fee due shall be submitted with the application and review of the application shall not begin until the permit application fee is paid in full.

# City of Valdosta Land Development Regulations

## Section 310-18 Stormwater Management Plan Modifications for Off-site Facilities

- (A) The stormwater management plan for each land development project should provide for stormwater management measures located on the site of the project. Where the physical characteristics of the site so dictate, as determined by the City Engineer, the applicant may be allowed to modify the stormwater management plan to utilize an off-site or regional stormwater management facility.
- (B) A modified stormwater management plan must be submitted to the City Engineer that shows the adequacy of the off-site or regional facility.
- (C) To be eligible for a modification, the applicant must demonstrate to the satisfaction of the City Engineer that the use of an off-site or regional facility will not result in the following impacts to upstream or downstream areas:
  - (1) Increased threat of flood damage to public health, life, and property;
  - (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 state or federal regulations.
- (D) The off-site or regional facility must be:
  - (1) Located on property legally dedicated for the purpose;
  - (2) Designed and adequately sized to provide a level of stormwater quantity and quality control that is equal to or greater than that which would be afforded by on-site practices; and
  - (3) There must be a legally-obligated entity responsible for long-term operation and maintenance of the off-site or regional stormwater facility.
- (E) In addition, on-site measures shall be implemented, where necessary, to protect upstream and downstream properties and drainage channels from the site to the off-site facility.

**Sections 310-19 through 310-24      Reserved**

# City of Valdosta Land Development Regulations

## Division 3 Post-Development Stormwater Management Performance Criteria

### Section 310-25 Water Quality

- (A) All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:
- (1) It is sized to treat the prescribed water quality treatment volume from the site, as defined in the *Georgia Stormwater Management Manual*;
  - (2) Appropriate structural stormwater controls or non-structural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the *Georgia Stormwater Management Manual*; and
  - (3) Runoff from hotspot land uses and activities identified by the City Engineer are adequately treated and addressed through the use of appropriate structural stormwater controls, non-structural practices, and pollution prevention practices.

### Section 310-26 Stream Channel Protection

- (A) Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following 3 approaches:
- (1) Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;
  - (2) 24-hour extended detention storage of the 1-year, 24-hour return frequency storm event; and
  - (3) Post development erosion prevention measures such as energy dissipation and velocity control taking into consideration their location and size of outlet control structures.
- (B) The City Engineer may modify or waive the detention requirements for sites that discharge directly into larger streams, rivers, wetlands, or lakes, or to a manmade channel or conveyance system where the reduction in these flows will not have an impact on upstream or downstream streambank or channel integrity.

### Section 310-27 Overbank Flooding Protection

- (A) Downstream overbank flood and property protection shall be provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the 25-year, 24-hour return frequency storm event. If control of the 1-year, 24-hour storm under subsection 310-26(B) is waived or modified, then peak discharge rate attenuation of the 2-year through the 25-year return frequency storm event must be provided.
- (B) The City Engineer may modify or waive the provisions of Section 310-27(A) for sites where the post-development downstream analysis shows that uncontrolled post-development conditions will not increase downstream peak flows, or that meeting the requirement will cause greater peak flow downstream impacts than the uncontrolled post-development conditions.

### Section 310-28 Extreme Flooding Protection

- (A) Extreme flood and public safety protection shall be provided by controlling and/or safely conveying the 100-year, 24-hour storm event such that flooding is not exacerbated.
- (B) The City Engineer may modify or waive the provisions of Section 310-28(A) for sites where the post-development downstream analysis shows that uncontrolled post-development conditions will not increase downstream peak flows, or that meeting the requirement will cause greater peak flow downstream impacts than the uncontrolled post-development conditions.

# City of Valdosta Land Development Regulations

## Section 310-29 Structural Stormwater Controls

- (A) All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the *Georgia Stormwater Management Manual*. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the *Georgia Stormwater Management Manual*, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the City Engineer before being included in the design of a stormwater management system.
- (B) In addition, if hydrologic or topographic conditions or land use activities warrant greater control than that provided by the minimum control requirements, the City Engineer may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff or increased nonpoint source pollution loads created on the site in question.
- (C) Applicants shall consult the *Georgia Stormwater Management Manual* for guidance on the factors that determine site design feasibility when selecting and locating a structural stormwater control.

## Section 310-30 Stormwater Credits for Non-structural Measures

The use of 1 or more better site design measures by the applicant may allow for a reduction in the water quality treatment volume required under Section 310-25. The applicant may, if approved by the City Engineer, take credit for the use of stormwater better site design practices and reduce the water quality volume requirement. For each potential credit, there is a minimum set of criteria and requirements which identify the conditions or circumstances under which the credit may be applied. The site design practices that qualify for this credit and the criteria and procedures for applying and calculating the credits are included in the *Georgia Stormwater Management Manual*.

## Section 310-31 Drainage System Guidelines

- (A) Stormwater conveyance facilities, which may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, ditches, and energy dissipaters, shall be provided when necessary for the protection of public right-of-way, public properties, and private properties adjoining project sites and/or public rights-of-way. Stormwater conveyance facilities that are designed to carry runoff from more than 1 parcel, existing or proposed, shall meet the following requirements:
  - (1) Methods to calculate stormwater flows shall be in accordance with the *Georgia Stormwater Management Manual*;
  - (2) All culverts, pipe systems, and open channel flow systems shall be sized in accordance with the stormwater management plan using the methods included in the *Georgia Stormwater Management Manual*; and
  - (3) Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the *Georgia Stormwater Management Manual*.

## Section 310-32 Dam Design Guidelines

Any land development activity that involves a site which proposes a dam, as such term is defined by O.C.G.A. § 12-5-372(4), shall comply with the Georgia Safe Dams Act and Rules for Dam Safety, as applicable.

## Sections 310-33 through 310-40 Reserved

# City of Valdosta Land Development Regulations

## Division 4 Construction Inspections of Post-development Stormwater Management System

### Section 310-41 Inspections to Ensure Plan Compliance During Construction

- (A) Periodic inspections of the stormwater management system construction shall be conducted by the City Engineer or conducted and certified by either a professional engineer, a registered landscape architect (RLA), or a registered surveyor (RLS), who is licensed in the State of Georgia and has been approved by the City Engineer. Construction shall be inspected to establish compliance with the approved stormwater management plan.
- (B) All inspections shall be documented with written reports that contain the following information:
  - (1) The date and location of the inspection;
  - (2) Whether construction is in compliance with the approved stormwater management plan;
  - (3) Variations from the approved construction specifications; and
  - (4) Any other variations or violations of the conditions of the approved stormwater management plan.
- (C) If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions in accordance with the provisions of Section 310-61.

### Section 310-42 Final Inspection and As-built Plans

Upon completion of a project, and before a certificate of occupancy shall be granted or a final plat recorded, the applicant shall be responsible for certifying that the completed project is in accordance with the approved stormwater management plan. All applicants are required to submit actual "as-built" plans for any stormwater management facilities or practices after final construction is completed. Refer to the Standards and Specifications for as-built criteria. The plan must show the final design specifications for all stormwater management facilities and practices and must be certified by either a professional engineer, a registered landscape architect (RLA), or a registered surveyor (RLS), who is licensed in the State of Georgia. A final inspection by the City Engineer is required before the release of any performance securities can occur. The City Engineer may verify the accuracy of the submitted as-built plans prior to the issuance of a final recorded plat or certificate of occupancy.

### Sections 310-43 through 310-50 Reserved

# City of Valdosta Land Development Regulations

## Division 5 Ongoing Inspection and Maintenance of Stormwater Facilities and Practices

### Section 310-51 Long-term Maintenance Inspection of Stormwater Facilities and Practices

- (A) Stormwater management facilities and practices included in a stormwater management plan that are subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan, and this article.
- (B) Where no maintenance agreement has been recorded, it shall be the responsibility of the property owner(s) to maintain the operational characteristics of any facility (detention/retention pond, swale, gully, inlet, outlet and/or pipe) constructed on their property for storm water management pursuant to City requirements, to keep access points to the facility free of obstructions, and to keep the facility free of trash, debris, excessive vegetation, excessive sediment and other obstacles that would pollute, contaminate or significantly retard the flow of water through the stormwater management facility.
- (C) A stormwater management facility or practice shall be inspected on a periodic basis by the responsible person in accordance with the approved inspection and maintenance agreement. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the City Engineer shall notify the person responsible for carrying out the maintenance plan by registered or certified mail to the person specified in the inspection and maintenance agreement. The notice shall specify the measures needed to comply with the agreement and the plan and shall specify the time within which such measures shall be completed. If the responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, and there is an immediate danger to public health or public safety, the City Engineer may correct the violation as provided in Section 310-15 and 310-54 of this article.
- (D) Inspection programs by the City Engineer may be established on any reasonable basis; including, but not limited to, routine inspections, random inspections, inspections based upon complaints or other notice of possible violations, and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater management facilities; and evaluating the condition of stormwater management facilities and practices.

### Section 310-52 Right-of-Entry for Inspection

The terms of the inspection and maintenance agreement shall expressly allow the City Engineer to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the city has a reasonable basis to believe that a violation of this article is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of this article.

### Section 310-53 Records of Maintenance Activities

Parties responsible for the operation and maintenance of a stormwater management facility shall, upon his request, provide records of all maintenance and repairs to the City Engineer.

### Section 310-54 Failure to Maintain

- (A) If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the City Engineer, after 30 days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), may refer the violation for legal action in accordance with Section 310-61 and 310-62.

## City of Valdosta Land Development Regulations

- (B) In the event that an emergency repair must be made by the City Engineer, the costs of the emergency repair work shall be billed to the owner(s) of the facility. Failure of the owner(s) to pay the costs within 30 days of receipt of the bill shall result in a delinquency and will be handled in accordance with Section 310-82(B).

**Sections 310-55 through 310-60      Reserved**

# City of Valdosta Land Development Regulations

## Division 6 Violations and Penalties.

### Section 310-61 Notice of Violation

- (A) If the City Engineer determines that an applicant or other responsible person has failed to comply with the provisions of this article or is engaged in activity covered by this article without having first secured a stormwater management permit, the City Engineer shall notify the owner or the responsible person in charge of the activity being conducted on the site by registered or certified mail to the person specified.
- (B) The applicant or other responsible person shall be provided a reasonable opportunity, of not less than 10 days, to cure such violation; except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hours' notice shall be sufficient.
- (C) Where a person is engaged in activity covered by this article without having first secured a stormwater management permit, the City Engineer shall issue an immediate stop work order in lieu of a written notice.
- (D) The notice of violation shall contain:
  - (1) The name and address of the owner or the applicant or the 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 stormwater management permit, the stormwater management plan, or this article, and a time schedule for the completion of such remedial action.
  - (5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed.
  - (6) A statement that the determination of a violation may be appealed to the City Engineer by filing a written notice of appeal within 10 days after the notice of violation, except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hours' notice shall be required.
  - (7) Appeals filed in writing to the City Clerk pursuant to paragraph (6) of this Section shall be referred to a committee consisting of the City Engineer, the City Attorney and the Stormwater Technician to decide within 5 business days.
- (E) In the event the violation constitutes an immediate danger to public health or public safety, the City Engineer is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or to restore the property. The City Engineer is authorized to seek costs of the abatement as a delinquency that will be handled in accordance with Section 310-82(B).

### Section 310-62 Penalties

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, or the time for filing an appeal has expired, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed.

- (A) Stop work order. The City Engineer may issue a stop work order that shall be served on the applicant or other responsible person. The stop work order shall be in effect immediately upon issuance and shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.

## City of Valdosta Land Development Regulations

- (B) Withhold certificate of occupancy. The City Engineer may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- (C) Suspension, revocation or modification of permit. The City Engineer may suspend, revoke or modify any permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the City Engineer may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (D) Civil Penalties. In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the City Engineer shall deem appropriate, except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient, the City Engineer may refer the matter to municipal court as provided in Section 310-62(E). Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.
- (E) Criminal Penalties. For intentional and flagrant violations of this article, the City Engineer may issue a citation to the applicant or other responsible person, requiring such person to appear in Municipal Court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

**Sections 310-63 through 310-70                      Reserved**

# City of Valdosta Land Development Regulations

## Article 2 Stormwater Utility

### Section 310-71 Purpose

- (A) The City of Valdosta is authorized by the State Constitution, including, without limitation, Article IX, Section II, Paragraphs I(a) and III(a)(6) thereof and state law to provide stormwater management services throughout the incorporated areas of the city.
- (B) In order to protect the health, safety and welfare of the public, and the natural resources of the city, the City of Valdosta hereby exercises its authority to establish a stormwater utility and establish rates for stormwater management services.
- (C) The federal Clean Water Act, as amended by the Water Quality Act of 1987 (33 USC 1251 et seq.), other amendments and rules promulgated by the United States Environmental Protection Agency pursuant to the act, place increased emphasis on the role of local governments in developing, implementing, conduction and making available to is citizens and property owners stormwater management services which address water quality and volume impacts of stormwater runoff.
- (D) Prior development in the city and the outlook for continued development at an increasing rate in the future has created and will continue to create a need for stormwater management services, systems and facilities within the city.
- (E) The city has engaged a consultant to perform professional engineering and financial analysis of the city's stormwater management needs and the alternatives available to the city for dealing with stormwater management, and has received, reviewed and considered the results of the consultants' analysis which identify stormwater management needs, propose strategic program goals and priorities, estimate the costs of stormwater management services, systems, and facilities, examine reasonable charges by the city for providing such services and facilities and project the rate base available within the city to support such costs.
- (F) The Mayor and City Council find and conclude from the professional engineering and financial analyses that it would be desirable to provide for additional stormwater management services, systems and facilities within certain more developed portions of the city.
- (G) The Mayor and City Council find and conclude from the professional engineering and financial analyses that a fair and equitable rate structure for those receiving the benefits of stormwater management services, systems and facilities, the proceeds of which will be dedicated to the city stormwater utility for carrying out its purposes, will be essential if the city is to provide the level of stormwater management services, systems and facilities that would be desirable to meet the existing and future stormwater management needs of the city.

### Section 310-72 Findings

- (A) The Mayor and City Council make the following findings of fact:
  - (1) The professional engineering and financial analyses conducted on behalf of and submitted to the city assesses and defines the stormwater management issues, needs, goals, program priorities and operation opportunities of the city.
  - (2) Given the issues, needs, goals, priorities and operational opportunities identified in the professional engineering and financial analyses submitted to the city, it is appropriate to authorize the establishment of an accounting unit which shall be dedicated specifically to the management, maintenance, protection, control, regulation, use and enhancement of stormwater management services, system and facilities in the city in concert with water resources management programs.
  - (3) Stormwater management is applicable and needed throughout the city. Development in the city has altered the natural hydrology with some natural elements having been replaced or augmented by man-made facilities. Even areas of the city that remain less densely developed and rural in character with natural stormwater drainage predominating demand

## City of Valdosta Land Development Regulations

services along roads where ditches and culverts have been installed. As a result, stormwater management services systems and facilities needs apply to all areas of the city.

- (4) The stormwater needs in the city include, but are not limited to, protection of the public health, safety, and welfare of the community. Provision of stormwater management services renders and/or results in both a service and a benefit to all properties, property owners, citizens, and residents of the city in a variety of ways as identified in the professional engineering and financial analyses.
- (5) The services and benefits rendered, or resulting from provision of stormwater management services, may differ depending on many factors and considerations, including but not limited to location, demands and impacts imposed on the stormwater management systems and programs, and risk exposure. It is practical and equitable to allocate the cost of stormwater management among the owners of properties in proportion to the long term demands the properties impose on the city's stormwater management services which render or result in services and benefits to such properties and the owners thereof.
- (6) The city presently owns and operates stormwater management systems and facilities, which have been developed, installed, and acquired through various mechanisms over many years. The future usefulness and operational function of the existing stormwater management systems and facilities owned and operated by the city, and the future additions and improvements thereto, rests on the ability of the city to effectively manage, protect, control, regulate, use, and enhance stormwater systems and facilities within the city in concert with the management of other water resources within the city. In order to do so, the city must have both a comprehensive stormwater management program as well as an adequate and stable funding source for its stormwater management services, systems, and facilities.
- (7) A stormwater utility provides the most practical and appropriate means of properly delivering stormwater management services throughout the city, and the most equitable means to regulate the use of a higher level of stormwater management services in the city through stormwater service charges, user fees and other mechanisms as described in the professional engineering and financial analyses prepared for the city.
- (8) Improper management of stormwater runoff may cause erosion of lands, threaten businesses and residences, and other facilities with water damage and may create environmental damage to the streams and other bodies of water within and adjacent to the City of Valdosta.
- (9) Failure to effectively manage stormwater affects the operations of sanitary sewer operated by the City of Valdosta by, among other things, increasing the likelihood of infiltration and inflow into the sanitary sewer system.
- (10) Failure to effectively manage stormwater contributes to the further degradation of the water quality in area water bodies which may result in higher levels of treatment requirements imposed on the city's wastewater treatment facilities and increased water treatment cost of potable water supplies.
- (11) Proper management of stormwater is a key element of having clean water with adequate assimilative capacity for treated wastewater discharges and adequate potable drinking water that are essential to support existing and future development in the City of Valdosta.
- (12) A schedule of stormwater utility service charges based in part on the area of impervious surface located on each property is the most appropriate and equitable means of allocating the cost of stormwater management services throughout the city. Such user fee charges may be complemented by other types of charges which address specific needs, including, but not limited to, special service fees, special assessments, use of proceeds from special purpose local option sales taxes and other forms of revenue, as deemed appropriate by the Mayor and City Council.

## City of Valdosta Land Development Regulations

- (13) The existence of privately owned and maintained on-site or off-site systems, facilities, activities or assets which reduce or otherwise mitigate the impact of a particular property on the city's stormwater utility's cost of providing stormwater management services and/or stormwater management systems and facilities should be taken into account to reduce the service charge on that property either in the form of a direct reduction or credit, and such reduction or credit should be conditional upon continuing provision of such services, systems, facilities, activities or assets in a manner complying with the standards and codes as determined by the City Engineer. Reductions or credits for privately owned and maintained stormwater management systems, facilities, activities or assets shall be generally proportional to the affect that such systems have on the peak rate of runoff from the property benefited by such systems.
- (14) The area of impervious surfaces on each property is the most important factor influencing the cost of the stormwater management services provided by the city or to be provided by the city in the future, and the area of impervious surfaces on each property is therefore the most appropriate parameter for calculating a monthly stormwater service charge.
- (15) It is imperative that the proceeds from all service charges for stormwater management services, together with any other revenues raised or otherwise allocated specifically to stormwater management services, be dedicated solely to those purposes, and such proceeds of service charges and revenues shall therefore be deposited into the enterprise accounting fund of the city stormwater utility and shall remain in that fund and be dispersed only for stormwater management operating and non-operating costs.

### **Section 310-73 Stormwater Utility and Enterprise Fund Established**

- (A) There is hereby established a stormwater utility to be known as the City of Valdosta Stormwater Utility, which shall be responsible for stormwater management services throughout the city, and which shall provide for the management, protection, control, regulation, use, and enhancement of the city's stormwater management services, systems and facilities.
- (B) There is hereby established a stormwater utility enterprise fund in the city budgeting and accounting systems for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the city stormwater utility, including, but not limited to, rentals, rates, charges, fees and licenses, as may be established by the Mayor and City Council from time to time, and other funds that may be transferred or allocated to the city stormwater utility. All revenues and receipts of the stormwater utility shall be placed in the stormwater utility enterprise fund, and all expenses of the stormwater utility shall be paid from the stormwater utility enterprise fund; provided, however, that other revenues, receipts, and resources not accounted for in the stormwater utility enterprise fund may be applied to stormwater management services as deemed appropriate by the Mayor and City Council.
- (C) The Mayor and City Council shall place within the city division the responsibility for operation, maintenance and regulation of the existing stormwater management services, systems and facilities previously performed, owned and operated or maintained by the city, and other related assets, including, but not limited to, properties, other than road rights-of-way, upon which such stormwater management systems and facilities are located, easements, rights-of-entry and access and certain equipment used solely for stormwater management. This responsibility shall be placed with the city stormwater division as the Mayor and City Council has determined that the city stormwater division has been sufficiently organized, staffed, and funded to adequately carry out such responsibilities. The Mayor and City Council shall determine which department of the city's governing body organization to place the stormwater utility in, and the Mayor and City Council can move the stormwater utility to other divisions and/or departments from time to time as it sees fit.

## City of Valdosta Land Development Regulations

### Section 310-74 Scope of Responsibility for Systems and Facilities

- (A) The City owns or has rights established by written agreements that allow it to operate, maintain, and access those stormwater management systems and facilities which are located:
  - (1) Within public road rights-of-way and easements;
  - (2) On private property but within easements granted to the city, or are otherwise permitted to be located on such private property by written agreements for rights-of-entry, rights-of-access, rights-of-use or other permanent provisions for operation, maintenance, improvement and access to the stormwater management and facilities; or
  - (3) On public land which is owned by the city or another governmental entity, and to which the city has agreements providing for the operation, maintenance, and access to the stormwater management systems and facilities.
- (B) Operation and maintenance of stormwater management systems and facilities which are located on private or public property not owned by the city and for which there has been no written agreement granting easements, rights-of-entry, rights-of-access, rights-of-use or other form of dedication thereof to the city for operation, maintenance, and access of such stormwater management and systems and facilities shall be and remain the legal responsibility of the property owner, except as otherwise provided for by the state and federal laws and regulations.
- (C) It is the express intent of this article to protect the public health, safety and welfare of people and property in general, but not to create any special duty or relationship with any individual person, or to any specific property within or outside the boundaries of the city. The city expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages or equitable remedies upon the city, its council members, officers, employees and agents arising out of any alleged failure or breach of duty or relationship.
- (D) If any permit, plan approval, inspection or similar act is required by the city as a condition precedent to any activity or change upon property not owned by the city pursuant to this or any other regulatory ordinance, regulation or rule of the city, or under federal or state law, the issuance of such permit, plan approval or inspection shall not be deemed to constitute a warranty, express or implied, nor shall it afford the basis for any action, including any action based on failure to permit or negligent issuance of a permit, seeking the imposition of money damages or equitable remedies against the city, its council members, officers, employees or agents.

### Section 310-75 Enforcement Methods and Inspections for On-site Systems and Facilities

- (A) All owners of real property within the incorporated limits of the City of Valdosta, and every person who serves as a contractor for the purposes of developing real property located in the city, shall, as to the real property owned or being developed, provide, manage, maintain, and operate on-site stormwater management systems sufficient to collect, convey, detain, and discharge stormwater runoff in a safe manner consistent with all city development regulations, ordinances, and state and federal laws and which, in any event, will not discharge stormwater in a manner which will flood, damage, or otherwise harm property which is located downstream from the real property owned or being developed. Any failure to meet this obligation and requirements imposed by this article shall constitute a public nuisance and the parties damaged thereby and/or the city may bring an action to abate such nuisance. Any parties damaged may include in such action a claim for damages which such party has sustained. Each day such violation exists shall constitute a separate offense.
- (B) If any court of competent jurisdiction shall find that the failure of the owner and/or developer to meet the obligations and requirements imposed by this article constitutes a public nuisance or private nuisance, and the property owner and/or developer fails to abate within the time limit which the court might impose, the city may enter upon the property at issue and cause such work to be

## City of Valdosta Land Development Regulations

performed as is reasonably necessary to abate the nuisance, with the cost of such work thereof assessed against the property owner and the developer, if any, on a joint and several basis.

- (C) If the city incurs costs to abate a nuisance as set forth in subsection (B) of this section, the city may file suit to recover such costs and establish its judgment lien rights in relation thereto, which lien rights may be perfected, after judgment, by the city filing a notice of lien on the general execution docket of the Superior Court of the City of Valdosta.
- (D) The city shall have the right for its designated officers, representatives, agents, and employees to enter upon private property and public property owned other than by the city, upon reasonable notice to the owner of such property, to inspect the property, in order to assure compliance with the provisions of this article, all applicable city ordinances, state and federal law, orders or judgments. Such inspections shall be limited to the following purposes:
  - (1) Conducting surveys and engineering tests on existing stormwater management systems and facilities located on-site; or
  - (2) Determining that stormwater management systems and facilities need to be constructed on such property.

### Section 310-76 Service Charges and User Fees

- (A) It shall be the policy of the city that service charges and user fees for stormwater management services to be provided by the stormwater utility in the city shall be equitably derived through methods which have a demonstrable relationship to the varied demands and impacts imposed on the stormwater management services by individual properties and/or the level of service rendered by or resulting from the provision of stormwater management services. Stormwater service charge rates shall be structured so as to be fair and reasonable, and the resultant service charges shall bear a substantial relationship to the cost of providing stormwater management services. Similarly situated properties shall be charged similar rates, service charges, and user fees. Service charge rates shall be coordinated with the use of other rates, charges or fees employed for stormwater management within the city, including, but not limited to, plan review and inspection fees, special fees for services, fees in lieu of regulatory requirements and special assessments. In setting the rates, service charges and user fees for stormwater management services, the Mayor and City Council shall also take into consideration the impact such will have in regulating the use of such services, systems and facilities.
- (B) The cost of stormwater management services may include management and operating expenses.
- (C) To the extent practicable, credits against stormwater service charges and/or other methods of funding stormwater management shall be provided for on-site stormwater control systems and activities operated, maintained and performed to the city's standards by private property owners which eliminate, mitigate or compensate for the impact that the property or person may have upon stormwater runoff discharged to public stormwater management systems and facilities or to private stormwater management systems and facilities which impact the proper function of public stormwater management systems and facilities.

### Section 310-77 Establishment of Rates

- (A) For the purpose of this article, a single-family unit (SFU) shall be equivalent to 3,704 square feet of impervious property.
- (B) The City Engineer and/or his designee shall be responsible for determining the impervious area and other required information for each property in the city based on the best available information, including, but not limited to, data supplied by the board of assessors, aerial photography, the property owner, developer or other method as may be required.

## City of Valdosta Land Development Regulations

- (C) Except as provided in this article, every contributor owning or occupying a single-family residential property, multifamily residential property, or a nonresidential property other than exempt property, shall pay to the city, at the same time payment is made for other city services, a stormwater fee to be determined and billed as provided in this article. In the event the owner and the occupant of a particular property are not the same, the liability for payment of the stormwater fee attributable to that property shall be joint and several as to the owner and occupant. The stormwater fee shall be a monthly service charge and shall be determined by this article and the SFU rate which is established in this article and from time to time adjusted as provided for in this article.
- (D) The stormwater fees provide in Sections 310-78 through 310-80 of this article shall be applied and computed for each contributor during the customary billing periods.
- (E) The SFU monthly stormwater utility multiplier rate shall be applied to residential and non-residential properties at the rate of \$3.50/SFU/month.
- (F) Any changes to the stormwater fee shall be accomplished by the annual adoption of the City's fiscal year budget, or adopted amendment thereto.
- (G) For new single-family detached residences, new non-single-family detached residential properties, and newly developed non-residential properties, the stormwater fee attributable to those properties shall commence upon the earlier of the following:
  - (1) The issuance of a permanent water meter.
  - (2) If no water-meter is issued for the development or if development has halted, on the date the City Engineer and/or his designee determines in reasonable judgment that the development is substantially complete or has been halted for at least 3 months.
- (H) The rates are established as the initial stormwater service charge rates subject to the exemptions and credits provided in Section 310-81.
- (I) Any owner or occupant of a property aggrieved by the City Engineer and/or designee's calculation of the stormwater fee as provided in this article may appeal such a determination to the City Engineer as provided for in Section 310-83 of this article.
- (J) No revenues generated by the stormwater utility shall be used for any purpose other than stormwater expenses.

### Section 310-78 Stormwater Fee for Single-Family Detached Residential Properties

The stormwater fee for a single-family detached residential property shall be the following percentage of the SFU rate:

Impervious Area of Property (square feet)	Percentage of SFU Rate
1,849 or less	50%
1,850 to 6,099	100%
6,100 or more	170%

### Section 310-79 Stormwater Fee for Multifamily Residential Properties

The stormwater fee for a non single-family detached residential property shall be the following percentage of the SFU rate multiplied by the number of dwelling units on the property:

## City of Valdosta Land Development Regulations

<b>Non Single-family Detached Dwelling Residential Property Classification</b>	<b>Percentage of SFU Rate</b>
Multifamily, 5 or more dwelling units/building	40%
Multifamily, 4 or less dwelling units/building	50%
Manufactured Homes	50%

### **Section 310-80 Stormwater Fee for Nonresidential Properties**

All other developed nonresidential property shall have the SFUs calculated by dividing the total impervious area by the square feet contained in the SFU.

### **Section 310-81. Stormwater Fee Exemptions and Credits.**

- (A) Except as provided in this Section or otherwise provided by law, no public or private property located in the city shall be exempt from the stormwater service charges or receive a credit or offset against such stormwater service charges. No exception, credit, offset, or other reduction in stormwater service charges shall be granted based on the tax status, economic status, race, religion, age or sex of the owner of the property being served, or based on any other condition unrelated to the stormwater utility's cost of providing stormwater management services, systems and facilities.
- (B) A stormwater service charge credit technical manual, the latest version of the City's *Stormwater Utility Policies and Procedures Manual, Section 2 – User Fee Adjustment and Credits*, approved by Mayor and City Council specifies the design and performance standards of on-site and off-site privately owned and maintained stormwater systems, facilities, assets, services and activities that qualify for application of a credit, and how such credits shall be calculated.
- (C) Exemptions to the stormwater service charges are as follows:
- (1) Railroad rights-of-way (tracks) shall be exempt from stormwater service charges. However, railroad stations, maintenance buildings, and/or other developed land used for railroad purposes shall not be exempt from stormwater service charges.
  - (2) Airport runways and taxiways, but not including airplane parking areas, car parking areas, buildings or other impervious areas or airport property.
  - (3) Public and private roadways, not including driveways
- (D) Other developed land and groups of detached single-family detached dwelling unit or improvements on other developed land which are developed as part of a common development plan that includes within the development , but not on the lots the detached single-family dwelling units or the improvement on other developed land are located on, privately owned, maintained, or operated stormwater control systems, facilities, assets, services or activities that reduce the city stormwater utility's costs of providing stormwater management services, systems, and facilities, may receive a credit based on attaining and continuing compliance with the technical requirements and performance standards contained in the stormwater service charge credit technical manual.
- (E) In order to obtain a credit, the property owner must make application to the City Engineer and/or designee on forms found within the City's *Stormwater Utility Policies and Procedures Manual*.
- (F) When an application for a credit is deemed complete by the City Engineer and/or designee, they shall issue a decision granting the credit in whole or in part, or denying the credit within 90 calendar days thereafter.

## City of Valdosta Land Development Regulations

- (G) Credits applied for by the property owner, and granted in whole or in part, shall apply from the first day of the calendar month immediately following the date on which the credit was granted.
- (H) A property owner shall be required every June 30 to document service provision for the preceding calendar year.
- (I) If a credit is terminated, the property owners may appeal such determination pursuant to Section 310-83, or may, if possible, correct the deficiencies which caused termination and reapply for the credit no earlier than 12 months from the date of termination.
- (J) Property owners with NPDES permits, however, must submit the report prescribed in the NPDES permit to the City Engineer and/or designee to continue to receive the credit from the city associated with the NPDES permit.

### Section 310-82 Stormwater Service Charge Billing, Delinquencies, and Collections

Failure to receive a stormwater utility bill is not justification for non-payment. The property owner, as identified from public land records of the City of Valdosta, shall be obligated to pay the appropriate stormwater service charge for that property.

#### (A) Billing.

- (1) Stormwater service charges shall begin to accrue June 1, 2006, and shall be billed in arrears. A bill for stormwater service charges may be sent through the United States Postal Service or by alternative means, notifying the owner of the property being billed of the amount of the stormwater service charge less credits, the date the payment is due and the date when payment is past due.
- (2) The stormwater service charge may be billed and collected separately, or along with water and sanitary sewer charges, or along with other fees for services, as deemed most effective and efficient by the Mayor and City Council.
- (3) Frequency of the billing of stormwater service charges shall be monthly unless otherwise specified by the Mayor and City Council.
- (4) Failure to receive a bill shall not be justification for nonpayment. Regardless of the party to whom the bill is initially directed, the owner of each parcel of developed land subject to stormwater service charges shall be obligated to pay stormwater service charges and any interest on delinquent stormwater service charge payments.
- (5) If a property is unbilled, or if no bill is sent for a particular tract of developed land, the City of Valdosta Stormwater Utility may backbill for a period of up to one year, but shall not be entitled to any interest for any delinquency during the back billed period.

#### (B) Delinquencies and Collection.

- (1) Unpaid stormwater service charges shall be collected by filing suit to collect on an unpaid account and by using all methods allowed by Georgia law to collect on any judgment obtained thereby, including enforcement of any lien resulting from any such judgment. In no instance shall the unpaid stormwater service charge constitute a direct lien against the property.
- (2) A 1% per month late charge shall be assessed against the owner for the unpaid balance of any stormwater service charge that becomes delinquent.

#### (C) Adjustments. The City Engineer and/or designee shall develop and administer the procedures and standards for the adjustment of the stormwater service charge.

- (1) Property owners may seek an adjustment of the stormwater service charge allocated to a property at any time by submitting the request in writing to the City Engineer and/or designee and setting forth in detail the grounds upon which relief is sought.

## City of Valdosta Land Development Regulations

- (2) Property owners requesting the adjustment may be required, at their own expense, to provide supplemental information to the City Engineer and/or designee, including, but not limited to, survey and customer account data provided and certified by a registered land surveyor or a professional engineer. Failure to provide such information within the time limits established by the City Engineer and/or designee, as may be reasonably extended, may result in denial of the adjustment request.
- (3) Once a completed adjustment request and all required information are received by the City Engineer and/or designee, the City Engineer and/or designee shall have 90 calendar days within which to render a written decision. Concurrent payment of any charges allocated to the property is not required as a condition precedent to this request for review.
- (4) In considering an adjustment request, the City Engineer and/or designee shall consider whether the calculation of the stormwater service charge for the property is correct.
- (5) The City Engineer and/or designee's decision shall be in writing and will be mailed to the address provided on the adjustment request, and service shall be complete upon mailing.
- (6) If the result of an adjustment is that a refund is due the applicant, the refund will be applied as a credit on the applicant's next stormwater bill.
- (7) The decision of the City Engineer and/or designee is final unless the property owner appeals the decision in accordance with Section 310-83.

### **Section 310-83 Appeals**

Any property owner, who contends that the provisions of this article have been applied in error to the property of such owner, may appeal the stormwater service charges billed them in accordance with the City's *Stormwater Utility Policies and Procedures Manual*.

**Sections 310-84 through 310-90            Reserved**

# City of Valdosta Land Development Regulations

## Article 3 Illicit Discharge and Illegal Connections

### Section 310-91 Purpose and Intent

The purpose of this article is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the City of Valdosta separate storm sewer system to the maximum extent practicable as required by Federal law and to provide flood control. This article establishes methods for controlling the introduction of pollutants into the City of Valdosta separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this article are to:

- (A) Regulate the contribution of pollutants to the City of Valdosta separate storm sewer system by any person.
- (B) Prohibit illicit discharges and illegal connections to the separate storm sewer system.
- (C) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the City of Valdosta separate storm sewer system.
- (D) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this article.

### Section 310-92 Applicability

The provisions of this article shall apply throughout the incorporated limits of the City of Valdosta.

### Section 310-93 Responsibility for Administration

The Director of Utilities shall administer, implement, and enforce the provisions of this article.

### Section 310-94 Prohibitions

#### (A) Prohibition of Illicit Discharges.

- (1) No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the City of Valdosta separate storm sewer system any pollutants or waters containing any pollutants, other than stormwater.
- (2) No person shall discard any waste material, including but not limited to common household rubbish or garbage of any kind (whether generated or accumulated at a residence, business or other location), upon any public or private property, whether occupied, open or vacant, including but not limited to any street, sidewalk, alley, right-of-way, open area or point of entry to the city separate storm sewer system except for sanitation route collection as authorized by the City of Valdosta. Every person occupying or having charge and control of property on which a prohibited disposal of waste materials occurs shall cause the proper collection and disposal of same. A prohibited disposal of waste material creates a danger to public health, safety, and welfare, and otherwise threatens the environment, surface waters and groundwater; therefore, any owner or occupant of property who fails to remove waste material within a reasonable time may be charged with creating a nuisance upon the property.
- (3) The commencement, conduct, or continuance of any illegal discharge to the city separate storm sewer system is prohibited except as described in subsection (4) of this section.
- (4) The following discharges are exempt from the prohibition provision above:
  - (a) Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, natural riparian habitat or wetland flows, swimming pools (if sufficiently treated to produce no detection of Total

## City of Valdosta Land Development Regulations

Residual Chlorine when analyzed to a specific detection limit of .05mg per liter), non-commercial washing of vehicles, and any other water source not containing pollutants.

- (b) Discharges or flows from fire fighting and other discharges specified in writing by the Director of Utilities as being necessary to protect public health and safety.
- (c) Any non-stormwater discharge permitted under an NPDES permit or order issued to the discharger and administered under the authority of the Georgia Department of Natural Resources (DNR) and/or the U.S. Environmental Protection Agency (EPA), provided that the discharge is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval from the authorizing governmental agency has been granted for any discharge to the City of Valdosta separate storm sewer system.

(B) Prohibition of Illegal Connections. The construction, connection, use, maintenance or continued existence of any illegal connection to the City of Valdosta separate storm sewer system is prohibited.

- (1) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (2) A person violates this article if the person causes a conveyance of sewage or septic effluent into the City of Valdosta separate storm sewer system or allows such a connection or conveyance to continue.
- (3) Improper connections in violation of this article must be disconnected and redirected, if necessary, to an approved on-site wastewater management system or, with the written approval of the City of Valdosta Director of Utilities, into the City sanitary sewer system.
- (4) Any drain or conveyance that has not been included in plans, maps, or otherwise documented and that may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice from the Director of Utilities requiring that such locating be completed. Such notice shall specify:
  - (a) A reasonable time period of not more than 10 working days, unless a longer period is authorized by the Director of Utilities, within which the location of the drain or conveyance is to be completed.
  - (b) That the drain or conveyance be identified as storm sewer, sanitary sewer, or other.
  - (c) That the outfall location or point of connection to the storm sewer system, sanitary sewer system, or other discharge point be identified.
- (5) The results of the investigations of the property owner or occupant shall be documented and provided to the Director of Utilities.

### **Section 310-95 Industrial or Construction Activity Discharges**

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director of Utilities prior to allowing discharges to the City of Valdosta separate storm sewer system.

### **Section 310-96 Access and Inspection of Properties and Facilities**

- (A) The Director of Utilities shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with the provisions of this article.

## City of Valdosta Land Development Regulations

- (B) If a property or facility has security measures in force that require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to the Director of Utilities during normal business hours.
- (C) The owner or operator shall allow the Director of Utilities ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination, and copying of any records that are required under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (D) The Director of Utilities shall have the right to set up on any property or facility such devices as are necessary, in the opinion of the Director of Utilities, to conduct monitoring and/or sampling of flow discharges.
- (E) The Director of Utilities may require the owner or operator to install monitoring equipment and perform monitoring, as necessary, and make the monitoring data available to the Director of Utilities. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated, to the satisfaction of the Director of Utilities, to ensure their accuracy.
- (F) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Director of Utilities and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (G) Delays of more than 5 working days in allowing the Director of Utilities access to a facility shall be a violation of this article.

### **Section 310-97 Notification of Accidental Discharges and Spills**

- (A) Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity, or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation that are resulting or may result in illicit discharges or pollutants discharging into stormwater, the City of Valdosta separate storm sewer system, state waters, or waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.
- (B) Said person shall notify the Director of Utilities in person, by phone, or facsimile of the location, nature, quantity, and time of occurrence of the discharge no later than 24 hours following the discovery of the release. In the event a discharge is caused by or during a catastrophic event, state of emergency, or natural disaster, such notification shall occur within seven (7) days of discovery. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of Utilities within 3 working days of the phone or in person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence, provided such recurrence is preventable. Such records shall be retained for at least three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill, unless the discharge or spill was caused solely by the acts of a third party not under the control of the discharging entity.
- (C) In the event of a release of hazardous materials as defined by 40 C.F.R. 355 and 40 C.F.R. 302, in an amount greater than or equal to the minimum reportable quantity as defined by 40 U.S.C. § 355.20 of the Environmental Planning and Right to Know Act ("EPCRA"), emergency response agencies and/or other appropriate agencies shall be immediately notified.
- (D) Failure to provide notification of a release as provided above shall be a violation of this article.

# City of Valdosta Land Development Regulations

## Section 310-98 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 (excluding required stream buffers), excessive sediment, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, such that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

## Section 310-99 Detention Pond Protection

Every person owning property, or such person's lessee, upon which a detention pond, swale, gully, inlet, outlet and/or pipe, being part of said property, will maintain that part within the property free of trash, debris, excessive vegetation, excessive sediment and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse.

## Section 310-100. Violations and Penalties.

- (A) Violations. In the event the violation of any provision of this article constitutes an immediate danger to public health, safety, or welfare, the Director of Utilities is authorized to, to take any and all measures provided by law to abate the violation and/or restore the property. The Director of Utilities is authorized to seek reimbursement for costs of the abatement as outlined in subsection (E).
- (B) Notice of violation. If the Director of Utilities determines that a violation of this article has occurred, the Director of Utilities may order compliance by issuing a written notice of violation to the person responsible for the violation.
- (1) The notice of violation shall contain:
- (a) The name and address of the alleged violator.
  - (b) The address or other description of the site upon which the violation is occurring, or has occurred.
  - (c) A statement specifying the nature of the violation.
  - (d) A description of the remedial measures necessary to restore compliance with this article and a time schedule for the completion of such remedial action.
  - (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
  - (f) A statement that the determination of violation may be appealed to the Director of Utilities by filing a written notice of appeal within 30 days of service of notice of violation.
- (2) Such notice may require without limitation:
- (a) The performance of monitoring, analyses, and reporting.
  - (b) The elimination of illicit discharges and illegal connections.
  - (c) That violating discharges, practices, or operations shall cease and desist.
  - (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property.
  - (e) Payment of costs to cover administrative and abatement costs subject to issuance of a court order.
  - (f) The implementation of pollution prevention practices.
- (C) Appeal of Notice of Violation. Any person receiving a notice of violation may appeal the determination of the Director of Utilities. The notice of appeal must be received within 30 days from

## City of Valdosta Land Development Regulations

the date of the notice of violation. Hearing on the appeal before the Mayor and City Council shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the Mayor and City Council shall be final.

- (D) Enforcement Measures after Appeal. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 10 days of the decision of the Mayor and City Council upholding the decision of the Director of Utilities, then representatives of the City of Valdosta are authorized to take any and all measures provided by law to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

Any person violating any of the provisions of this article shall become liable to the City of Valdosta by reason of such violation.

- (E) Civil Penalties. In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within 10 working days, or such greater period as the Director of Utilities shall deem appropriate, after the Director of Utilities has taken one or more of the actions described above, the Director of Utilities may impose a penalty not to exceed \$1,000 for each day the violation remains un-remedied after service of the notice of violation.
- (F) Criminal Penalties. For intentional and flagrant violations of this article, the Director of Utilities may issue a citation to the alleged violator requiring such person to appear in Magistrate Court of Lowndes County court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 working days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.
- (G) Violations Deemed a Public Nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.
- (H) Remedies Not Exclusive. The remedies listed in this article are not exclusive of any other remedies available under any applicable Federal, State or local law. The City of Valdosta may seek cumulative remedies. The City of Valdosta may also recover attorney's fees, court costs, and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

### **Section 310-101      Compatibility with Other Regulations**

This article is not intended to modify or repeal any other ordinance, rule, regulation, other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this article 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.

### **Sections 310-102 through 310-109      Reserved**

# City of Valdosta Land Development Regulations

## Article 4 Stream Buffer Protection

### Section 310-110 Purpose and Intent

The purpose and intent of this article is to protect the public health, safety, environment and general welfare; to minimize public and private losses resulting from erosion, siltation, and water pollution; and to maintain stream water quality by provisions designed to:

- (A) Create buffer zones along the streams of City of Valdosta for the protection of water resources.
- (B) Minimize land development within such buffers by establishing buffer zone requirements and by requiring authorization for any such activities.

### Section 310-111 Applicability

This article shall apply to all land development activity on property containing a stream protection area as defined in this Chapter. These requirements are in addition to, and do not replace or supersede, any other applicable buffer requirements established under state law. Any approval pursuant to or exemption from the provisions of this article does not constitute approval or exemption from buffer requirements established under state law or from other applicable local, state or federal regulations.

### Section 310-112 Land Development Stream Buffer Requirements

- (A) All land development activity, including subdivisions of land and platting activities governed by Chapter 302 of the LDR, shall meet the following buffer and setback requirements unless otherwise exempted in this article:
  - (1) In addition to the 25-foot stream buffer required in Section 306-2(C)(15) that is administered by the Georgia EPD, an additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer. Within this setback area, grading, filling and earthmoving shall be minimized and all impervious cover shall be prohibited.
  - (2) No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.
- (B) Any land development activity within a buffer established hereunder or any impervious cover within a setback established hereunder is prohibited unless a variance is granted pursuant to Section 310-114.
- (C) All construction activities are required to comply with both the state buffers and city-regulated buffers and are required to obtain a variance from each authority where appropriate.

### Section 310-113 Exemptions

- (A) Pre-existing conditions. This article shall not apply to the following pre-existing conditions:
  - (1) Work consisting of the repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this article.
  - (2) Existing development and on-going land development activities including but not limited to existing silviculture, landscaping, gardening and lawn maintenance, except that new development or land development activities on such properties will be subject to all applicable buffer requirements.
  - (3) Any land development activity that is under construction, fully approved for development, scheduled for permit approval or has been submitted for approval as of the effective date of this article.
  - (4) Land development activity that has not been submitted for approval, but that is part of a larger master development plan, such as for an office park or other phased development that has been previously approved within two years of the effective date of this article.

## City of Valdosta Land Development Regulations

- (B) Exempted activities. This article shall not apply to the following:
- (1) Activities for the purpose of building one or more of the following:
    - (a) A stream crossing by a driveway, transportation route or utility line.
    - (b) Public water supply intake or public wastewater outfall structures.
    - (c) Intrusions necessary to provide access to a property.
    - (d) Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks.
    - (e) Unpaved foot trails and paths.
    - (f) Activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used.
  - (2) Public sewer line easements paralleling the stream, except that all easements (permanent and construction) and land development activities should be at least 25 feet from the top of the bank. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited in subsection (B)(1), above.
  - (3) Permitted land development activities within a right-of-way existing at the time this article takes effect or approved under the terms of this article.
  - (4) Within an easement of any utility existing at the time this article takes effect or approved under the terms of this article, land development activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
  - (5) Emergency work necessary to preserve life or property. However, when emergency work is performed under this Section, the person performing it shall report such work to the City Engineer on the next business day after commencement of the work. Within 10 days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the City Engineer to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.
  - (6) Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land development in the buffer that would otherwise be prohibited, then no other land development activity other than normal forest management practices will be allowed on the entire property for three years after the end of the activities that intruded on the buffer.
  - (7) After the effective date of this article, it shall apply to new subdividing and platting activities.
  - (8) Any land development activity within a buffer established hereunder or any impervious cover within a setback established hereunder is prohibited unless a variance is granted pursuant to Section 310-114 below.

### **Section 310-114      Variances**

- (A) Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:

Where a parcel was platted prior to the effective date of this Chapter 310, and its shape, topography or other existing physical condition prevents land development consistent with this article, and the City Engineer finds and determines that the requirements of this article prohibit the otherwise lawful use of the property by the owner, the Zoning Board of Appeals may grant a

## City of Valdosta Land Development Regulations

variance from the buffer and setback requirements hereunder, provided such variance requires mitigation measures to offset the effects of any proposed land development on the parcel.

- (B) The Zoning Board of Appeals shall grant no variance from any provision of this article without first conducting notice and a public hearing on the application for variance and authorizing the granting of the variance in accordance with the procedures of LDR Section 242-7.
- (C) Variances will be allowed only in the following cases:
  - (1) When a property's size, shape, topography or other physical conditions prevents land development unless a buffer variance is granted.
  - (2) When such unusual circumstances exist so that strict adherence to the minimal buffer requirements in this chapter would create an extreme hardship.
  - (3) When relief, if granted, would not cause a substantial detriment to the public good or impair the purposes and intent of this chapter.
- (D) Variances shall not be considered when, following adoption of this article, the owner of any property who seeks relief is found to have contributed to the conditions of a hardship on that property by his/her own actions.
- (E) At a minimum, an application for a variance shall include the following information:
  - (1) A site map that includes locations of all streams, wetlands, floodplain boundaries, and other natural features, as determined by field survey.
  - (2) A description of the shape, size, topography, slope, soils, vegetation, and other physical characteristics of the property.
  - (3) A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land development, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated.
  - (4) Documentation of unusual hardship should the buffer be maintained.
  - (5) At least one alternative plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible.
  - (6) A calculation of the total area and length of the proposed intrusion.
  - (7) A stormwater management site plan, if applicable.
  - (8) Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.
  - (9) Other information required in Section 242-9(D).
- (F) The following factors shall be considered in determining whether to issue a variance:
  - (1) The shape, size, topography, slope, soils, vegetation, and other physical characteristics of the property.
  - (2) The locations of all streams on the property, including along property boundaries.
  - (3) The location and extent of the proposed buffer or setback intrusion.
  - (4) Whether alternative designs are possible which require less intrusion or no intrusion.
  - (5) The long-term and construction water-quality impacts of the proposed variance.
  - (6) Whether issuance of the variance is at least as protective of natural resources and the environment.

## City of Valdosta Land Development Regulations

- (G) Using information provided in the variance, the Zoning Board of Appeals shall conduct a technical review of the conditions of the property. The Zoning Board of Appeals may require the person seeking the variance to submit additional documentation in support of his or her request.
- (H) The decision of the Zoning Board of Appeals shall be issued in writing setting out the factual findings and conclusions reached. A copy of the decision of the Zoning Board of Appeals shall be served on the property owner personally or by registered or certified mail sent to the billing address for property tax purposes of the property owner.
- (I) Appeals from final decisions of said variances by the Zoning Board of Appeals shall be as provided for in LDR Section 242-8.

### **Section 310-115 Additional Information Requirements for Development on Buffer Zone Properties**

- (A) Any land disturbance permit applications pursuant to Section 302-44 of this LDR for property requiring buffers and setbacks hereunder must include the following information:
  - (1) A site plan showing:
    - (a) The location of all streams on the property.
    - (b) Limits of required stream buffers and setbacks on the property.
    - (c) Buffer zone topography with contour lines at no greater than 5-ft. contour intervals.
      - i. Delineation of forested and open areas in the buffer zone.
      - ii. Detailed plans of all proposed land disturbance in the buffer and of all proposed impervious cover within the setback.
  - (2) A description of all proposed land disturbance within the buffer and setback.
  - (3) Any other documentation that the City Engineer may reasonably deem necessary for review of the application and to insure that the provisions of this article are addressed in the approval process.
  - (4) All buffer and setback areas must be recorded on the final plat of the property following plan approval.

### **Section 310-116 Inspection**

The City Engineer may cause inspections of the work in the buffer or setback to be made in accordance with the provisions of Section 306-4 of this LDR.

### **Section 310-117 Violations, Penalties, and Enforcement**

- (A) Any action or inaction which violates the provisions of this article or the requirements of an approved site plan or permit may be subject to the enforcement actions outlined in this Section. Any such action or inaction which is continuous with respect to time is 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 the City Engineer determines that a land disturbance permit applicant or other responsible person has failed to comply with the provisions of this article, they shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this article without having first secured the appropriate permit therefore, the notice of violation shall be served on the property owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:
  - (1) The name and address of the owner or the applicant or the responsible person.

## City of Valdosta Land Development Regulations

- (2) The address or other description of the site upon which the violation is occurring, or has occurred.
  - (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 land disturbance permit, the approved site plan, or this article and the date for the completion of such remedial action.
  - (5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed.
- (C) **Penalties and enforcement.** In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the City Engineer shall first notify the applicant or other responsible person 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 public safety, 24 hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the City Engineer 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 Engineer may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.
  - (2) *Withhold certificate of occupancy.* The City Engineer may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
  - (3) *Suspension, revocation or modification of land disturbance permit.* The City Engineer may suspend, revoke or modify the land disturbance permit authorizing the project in accordance with the provisions of Section 302-44(d)(5) of this LDR.
  - (4) *Citations.* In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days (or such greater period as the City Engineer shall deem appropriate) (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), the City Engineer may issue a citation to the applicant or other responsible person, requiring such person to appear in the Magistrate Court of Lowndes County answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000.00 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

### **Section 310-118 Compatibility with Other Buffer Regulations and Requirements**

- (A) This article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

## City of Valdosta Land Development Regulations

(B) See also Section 324-3 of this LDR.

### **Section 310-119      Responsibility for Damages**

Neither the issuance of a land disturbance permit nor compliance with the conditions thereof, nor with the provisions of this article shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability upon City of Valdosta, its officers or employees, for injury or damage to persons or property.

### **Sections 310-120 through 310-130      Reserved**