

ARTICLE XII. - REGULATION OF CERTAIN LAND DEVELOPMENT ACTIVITIES Land Development Activities
Regulations Generally

Sec. 21-210. - Purpose.

The purpose of this article is to establish minimum standards for design and construction of site grading and site and land development projects within the city and within its police jurisdiction. These minimum standards for land development activities are intended to protect and promote the public health, safety and general welfare by requiring the developing party to achieve these goals:

- The design and construction of safe and durable streets, driveways and parking lots.
- The design and construction of adequate stormwater drainage systems to reduce flooding.
- The design and construction of adequate, reliable and durable sanitary sewer systems that prevent illicit discharges.
- Preparing complete and accurate plans to enable the developing party to adequately address grading and lot issues.
- Insuring that there are adequate measures in place to control erosion and sediment and that stormwater pollution is reduced and controlled through establishment and maintenance of best management practices during construction and development activities.
- That appropriate measures have been taken to maintain stormwater sewer systems.

(Ord. No. 7075, § 2, 5-22-07)

Sec. 21-211. - Scope.

This article does not contain all the regulations and requirements for development activities, design and construction nor does a permit issued pursuant to the provisions hereof serve as a substitute for obtaining and complying with all other applicable city ordinances, building and related codes, zoning restrictions, and other applicable regulations. Without limiting the generality of the foregoing development activities may also require building and related technical permits and inspections, compliance with zoning and subdivision ordinances and regulations. Municipal utilities for water and sewer require compliance with separate ordinances and policies of the water and sewer department of the city.

(Ord. No. 7075, § 2, 5-22-07)

Sec. 21-212. - Definitions.

The terms as defined in chapter 21 and chapter 16 of the Code of Tuscaloosa shall have applicability herein except that, whenever the following terms are used in this article they shall have the meaning respectively ascribed to them unless the context clearly indicates otherwise:

AASHTO: American Association of State Highway and Transportation Officials.

Alley: A street intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

Application: A form provided by and submitted to the city engineer by a developer desiring a land development permit (LDP) to engage in development as herein defined. An Application must be complete and properly supported with a land development plan, maps, and applicable data.

Applicant: A developer as herein defined, including applicant or developer's representative, who is applying for a land development permit pursuant to the provisions hereof.

Area. The provisions of this article shall have applicability to all site and land development projects and development activities within the corporate limits of the city and the city's police jurisdiction, including the development of subdivisions and planned unit developments (not individual lots within subdivisions) and the development of single family residential homes in flood hazard areas.

BMP—Best management practices: Schedules of activities, prohibitions of practices, maintenance procedures and other structural and nonstructural management devices implemented to prevent or reduce the discharge of pollutants off site. Nonstructural BMPs are strategies implemented to control stormwater runoff that focus on pollution prevention such as alternative site design, zoning and ordinances, education, and good housekeeping measures. Structural BMPs are engineered devices to control, treat, or prevent stormwater runoff pollution. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

City drainage standards: The criteria, standards and specifications for the design and construction of storm drainage structures, streets and earth change issued by the city engineer.

City engineer: The city engineer or his/her authorized representative.

Commercial: Pertaining to the use of any area, structure or other facility for commercial use, industrial use or for multifamily dwelling where more than four dwelling units are involved.

Contractor: A person, firm or corporation either self-employed or otherwise employed by the developer to engage in development activity or to construct, reconstruct, alter, remove or replace a driveway approach.

Corner: The point at which the prolongation of the lateral boundary lines of two roadways intersect.

Curbed street: A street having concrete curbs or curbs and gutters or other such equivalent physical features which serve to establish a permanent street grade.

Detention: The temporary storage and controlled release of stormwater runoff.

Detention facility: A facility that provides temporary storage of storm runoff and controlled release of this runoff.

Development: Any manmade or earth change to property within the area including, but not limited to, preparation of land for the construction of buildings or other structures, mining, dredging, filling, grading, regrading, paving, clearing, excavation or drilling operations. This definition also includes changes or improvements to any property subject to these regulations such as curb and gutter, storm drainage structures, streets, drainage facilities, sidewalks, and related public or private roads and the installation of utilities. Development includes the construction or reconstruction of driveways or driveway approaches.

Developer: Any person, firm, partnership, corporation or other legal entity engaged in or seeking to engage in development activity as herein defined including a developer that has been issued a land development permit pursuant to the provisions of this article.

Drainage facilities: Drainage facilities shall consist of storm sewers (closed conduits), improved channels, unimproved drainage ways left in their natural condition, areas covered by restricted drainage way easements for the purpose of providing overland flow and appurtenances, including inlets, manholes, junction boxes, headwalls, dissipaters, culverts, detention facilities and the like, all such facilities being either public or private.

Driveway or driveway approach: An area existing or to be constructed across a street, intended for the operation of automobiles and other motor vehicles, giving access between a roadway and the right-of-way line.

Driveway land development permit—Permit—(DLDP): A land development permit that relates to a driveway or driveway approach.

Earth change: Any excavating, grading, regrading, land filling, berming, or diking of land or other activity upon land.

Erosion: The process in which by wind or water, soil particles are displaced and transported.

FHWA: Federal Highway Administration.

Flood: A temporary rise in the level of water which results in inundation of areas not ordinarily covered by water.

Floodplain area: The area subject to flooding as designated on the flood insurance rate map (FIRM), an official map of the city on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the city, where the boundaries of the areas of special flood hazard have been defined as zone A (latest edition), and its subsequent amendments including the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot of the area as herein defined.

Intersection:

- (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two streets which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.
- (b) Where a street includes two roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided street by an intersecting street shall be regarded as a separate intersection. In the event such intersecting street also includes two roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such streets shall be regarded as a separate intersection.
- (c) The junction of an alley with a street shall not constitute an intersection.

Joint driveway approach: A driveway approach that provides motor vehicular access to a street for more than one parcel of land.

Land development permit or permit (LDP): A written document prepared and executed by the city engineer or his/her designee which authorizes development in accordance with the provisions hereof and subject to any additional or specific requirements that may be stated therein. (Formerly SDP or site development permit, sections 21-101 and 21-152).

Land development plan or plan: A properly documented written plan, prepared, signed and stamped by a registered professional engineer, licensed in the state, consisting of a completed application with supporting documents demonstrating that development as herein defined will occur upon an identified parcel of land within the area in compliance with the provisions of this chapter [article]. The land development plan shall include drainage plans in compliance with city drainage standards, and compliance with technical specifications issued by the city engineer. An engineering drawing showing all the important physical features both existing and proposed, of a given parcel of land and abutting the right-of-way shall also be submitted with the application and form part of the plan. The land development plan will adequately and sufficiently address in accordance with the provisions of this article traffic, parking, stormwater, sanitary sewer, erosion, use of BMPs, sanitary sewer and related components.

Landscaping: As defined by Section 24-252.

Lot—Parcel—Plot—Property: Refers to a single undivided portion of land that is either legally recorded in the Tuscaloosa County property records, or is being proposed in good faith by well-prepared plan drawings for the purpose of being legally recorded. It is the responsibility of the property owner (or his agent) to insure that the property is legally recorded with the office of the probate judge.

Minimal land development plan: A land development plan for a parcel of land less than one acre in size or any land development where all required improvements are in place or there are minor earth changes in regard to which the city engineer may waive certain requirements and approve the land development plan as he deems appropriate to meet the purposes of this chapter [article].

Motor vehicle: Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except for electric personal assistive mobility devices.

MUTCD: Manual on Uniform Traffic Control Devices, Latest Edition.

Natural: The cover and topography of land before any manmade changes, or in areas where there have already been manmade modifications and development, the state of the area and topography of land at the date of the adoption of this article.

Owner: Persons or agent with lawful title or control of a parcel of land.

OSHA: Occupational Safety and Health Administration.

Parcel: See "Lot."

Parking: The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

Permittee: A person or a developer as herein defined including developer's representative who has been issued a land development or driveway land development permit pursuant to the provisions hereof.

Person: The word "person" shall include any person, corporation, firm, partnership, association, organization, contractor and/or any group acting as a unit as well as developers and individuals engaged in development as herein defined in the area. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law.

Plot: See "Lot."

Pollutants: As defined in section 21-151.

Property: See "Lot."

Property line: The boundary between two (2) or more lots.

Public infrastructure improvements: Improvements made to city infrastructure within city rights-of-way and/or public easements which may include but are not limited to streets, curb and gutter, landscaping, traffic signals, traffic control devices, sanitary sewer system, drainage facilities, sidewalks, and water distribution system.

Residential: Pertaining to the use of any area, structure or other facility primarily for dwellings, up to and including four (4) units.

Right-of-way: A general term denoting public ownership or interest in land, usually in a strip which has been acquired for or devoted to the use of a street or alley.

Right-of-way line: The boundary denoting the right-of-way limit usually between any public street or alley and one or more parcels of private property.

Roadway: That portion of a street improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a street includes two (2) or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

Runoff: The water from rain or melted snow that flows over the surface.

Sanitary sewer system: Lines, pump stations, treatment systems and any other permanent asset associated with the collection, transport, conveyance, treatment discharge of sanitary sewage or wastewater.

Sanitary sewer system capacity: The ability of all lines, pump stations and treatment assets in a sanitary sewer system to contain and properly treat sewage or wastewater which enters the system from any development.

Sedimentation: The deposition of eroded material.

Sedimentation facilities: Those facilities including debris basins, sedimentation traps, berms, interceptor ditches, land terraces, hay bales, and vegetation ground covers.

Sidewalk: That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, improved for use by pedestrians.

Stormwater: As defined in section 21-151 of the City Code of Tuscaloosa.

Street: As defined by section 21-1 of the City Code of Tuscaloosa.

Street classification: Pertaining to the location of driveway approaches, the hierarchy of the street network as recorded on the official major street plan as is now constituted and as the same may be, from time to time, amended, recorded in the office of the director of community planning and development.

Uncurbed street: A street not having concrete curbs, or curbs and gutters, or other such equivalent physical features which serve to establish a permanent street grade, whether paved or unpaved.

Written order: A written directive from the city engineer or his designee in regard to a land development permit or application.

(Ord. No. 7075, § 2, 5-22-07; Ord. No. 7254, § 1, 5-27-08; Ord. No. 8603, § 1, 9-26-17)

Sec. 21-213. - Legal aspects, other regulations.

All local, state and federal laws and regulations shall be considered when interpreting provisions of this article or technical specifications promulgated pursuant to this article. In each instance, the more restrictive requirement shall govern unless sound engineering judgment can determine and prove that the more restrictive requirement would be otherwise unnecessary. In most instances, laws and regulations that are phrased more explicitly shall apply over those items that are not phrased as precisely.

Nothing herein contained shall authorize a person to engage in development or earth changes within the area defined herein in a manner inconsistent with current zoning or subdivision regulations or other applicable codes or ordinances. All development or earth changing activity within the area defined herein shall be in conformity with current zoning or subdivision regulations and all other applicable codes or ordinances.

A land development permit or a driveway development permit does not authorize any person or developer to engage in any activity that would violate any other applicable code, ordinance, regulation or state or federal laws nor substitute for obtaining any licenses or permits otherwise required.

(Ord. No. 7075, § 2, 5-22-07)

Sec. 21-214. - Language and interpretation of text.

The following language rules are applicable to this article:

- (a) The imperative case is always mandatory. The words "shall" and "must" are always mandatory. These actions must be performed unless sufficient engineering justification is submitted to the city engineer and written approval has been granted.
- (b) The word "should" indicates an action that is highly recommended under most conditions. The word "may" indicates an allowable action or choice that is usually beneficial in meeting the minimum city requirements.
- (c) Use of the singular or plural case of a noun will not affect the applicability of this article, or any other law, regulation, or ordinance, unless the context of the sentence specifically indicates that the singular/plural case affects the intended use or function on a scientific or engineering basis. The use of a singular or plural noun does not necessarily indicate whether to design or construct a single unit or multiple units. The masculine includes the feminine.

- (d) Any reference to the city engineer shall also mean the duly authorized representatives, designees or employees under his supervision who have the delegated responsibility. Areas of delegated responsibility may include, but is not limited to: review and approval of plans, review and approval of survey plats, definition of standards or requirements, approval of special conditions, review and issuance of permits, inspections and field investigations, enforcement actions, issuing notices of violation, conducting public meetings, etc.

(Ord. No. 7075, § 2, 5-22-07)

Sec. 21-215. - Design objectives.

The purpose of this article is to establish minimum requirements to be met by a developer or persons with respect to development and driveway activities on property in the area. The design objectives of the developers land development plan and application for a land development permit shall sufficiently and adequately address the following issues:

- (a) Safe and functional design of roads, streets, driveways, and parking lots.
- (b) Safe and functional design of sidewalks, walkways, trails and other pedestrian routes.
- (c) Safe and functional design of drainage inlets, culverts, pipes and open channels.
- (d) Minimize flooding, interruptions of utility service, traffic inconvenience and potential water damage to residences and businesses.
- (e) Minimize the amount of public expenditures needed for maintenance of streets and roads, flood control projects, flood relief efforts, and stormwater facility maintenance.
- (f) Preservation of trees, woods, natural meadows and other green spaces as much as possible (in conjunction with allowable land uses and zoning codes).
- (g) Protect and enhance streams, wetlands, waterways and rivers for wildlife and plants by reducing stormwater pollution, erosion, and negative stormwater impacts.
- (h) Promote development of recreational facilities and design aesthetics along streams, waterways, wooded areas and other green ways to benefit local neighborhoods.
- (i) Protect and enhance the source of drinking water for the city in Lake Tuscaloosa, Harris Lake and Lake Nicol.
- (j) Eliminate illicit discharges in the area.
- (k) Protect and promote the general welfare of all citizens by achieving the goals of this article.
- (l) Preserve and protect existing utilities and utility easements.

(Ord. No. 7075, § 2, 5-22-07)

Sec. 21-216. - Engineering design, accountability and standards.

- (a) The developer shall submit with the application a land development plan which shall contain details, calculations, construction specifications and other technical details and related documents which must be designed and sealed (stamped) by a professional engineer registered in the state, with sufficient knowledge and experience to accomplish all design elements of the land development plan. The plan designs for all submitted developments must also meet federal and state standards for use of best management practices and health and safety. Trenching, scaffolding, temporary work platforms and excavations must satisfy OSHA standards. Traffic signs and signals must be designed to meet FHWA, MUTCD and AASHTO requirements. Consideration for public safety must be reflected throughout the design process of the land development plan. The plan must also locate, identify and address existing public utilities and public utility easements and what measures will be

taken to insure that the integrity, access and usability of the utilities and easements by the utility itself will be preserved. The plan shall provide calculations and capacity planning done for the proper design and construction of the sanitary sewer system serving the development and for the downstream sanitary sewer system receiving any wastewater from the development. All sanitary sewer system designs shall meet city requirements for sanitary sewer and/or water main construction and any other special requirements added as a result of the city engineer's review of the plan.

- (b) The design of the development in the plan must reflect a professional level of design expertise for stormwater calculations and flooding analyses. Stormwater design criteria are based upon current scientific knowledge and engineering judgment. The design should address the fact that floods and flooding may occur at any time due to any number of factors beyond the reasonable control of the city, such as: greater amounts of precipitation or different rainfall patterns than used in design storms, wet soil conditions, debris or blockage of key stormwater channels, high groundwater tables, etc.
- (c) All design professionals must have sufficient education and experience to perform a complete and thorough design of each element shown on the land development plan, and he or she must also have complete control to change or alter plans during the design phase. The professional's stamp is a public guarantee that his/her design has the highest regard for health and safety, protects the environment (air, soil, water) to the maximum degree possible, and serves the interests of the general public within the Area.
- (d) Design disclaimer: Compliance with applicable building and related codes, laws, ordinances of the city, state or the United States government, the use of best management practices and generally accepted engineering practices is the responsibility of the design professional, the contractor and the developer. The city through its permitting and inspection process pursuant to this article does not and cannot guarantee or assure that any development activity fully complies with all such codes and laws.

Submission of applications, plans, or drawings required herein are utilized only to ascertain their existence, that they comply with obvious requirements and generally meet the goals of this article. Plans are not reviewed by the city for compliance with all aspects of codes, ordinances or other laws or generally accepted engineering and design practices, that being the responsibility of the design professional. Inspections by the city are routine checks to determine compliance with the requirements of this article and are not intended as a substitute for proper design or development activity in accordance with the contract documents or all applicable code or technical provisions.

(Ord. No. 7075, § 2, 5-22-07)

Sec. 21-217. - Drainage standards—Generally.

Without limiting the generality of a land development plan (plan) as herein defined, such a plan submitted in support of a permit application shall also consist of text statements, engineering drawings, contour maps and supporting engineering calculations, as applicable to the property covered by the plan, which are necessary to demonstrate full compliance with the requirements of these drainage standards. A plan shall include all pertinent information required by the city engineer and shall include, but is not limited to, the following elements:

- (a) An engineering hydrologic analysis of stormwater runoff under existing site conditions and under proposed developed site conditions prepared by a professional engineer with expertise in hydrology.
- (b) A detailed evaluation of the projected effects on public and private property adjoining the site and on existing drainage facilities and systems both on and off the site; including evaluation of increased runoff of stormwater caused by the development or earth change.

- (c) Topographic information shall extend a minimum of two hundred (200) feet beyond the property line. Topographic information from the outfall of any piped or ditched (natural or manmade) area shall extend downstream to the nearest drainage structure through which the water flows.
- (d) The location of all existing drainage channels and subsurface drainage structures.
- (e) The on-site regulatory flood elevations and the boundaries of any floodplain area.
- (f) Drainage facilities on property lying downstream of other developable vacant land shall be sized to accommodate the pass through of the twenty-five-year postdeveloped or one-hundred-year predeveloped flow, whichever is greater. It shall be assumed that the vacant property will be developed at a similar density of the proposed development.
- (g) Proposed fill or other structure elevating techniques, levees, channel modifications and detention facilities;
- (h) The location and size of all existing and proposed drainage easements and areas;
- (i) Any computer software that is used must be approved by the city engineer prior to submitting a hydrologic study. If a computer program is not used to determine stormwater runoff, the rational method shall be used.
- (j) A minimum design storm of twenty-five (25) years must be used for all computations (excepting detention facilities and spillways).
- (k) Evidence that application for NPDES permit has been filed, where applicable, must be presented before a permit will be issued.
- (l) The minimum pipe size shall be fifteen (15) inches and in accordance with the specifications set out below.
- (m) Delineating and/or blue-lined streams as depicted on the USGS topographic maps.
- (n) The location of all public utilities and public utility easements on the site and adjacent to the site and an evaluation of what measures will be taken to insure that the integrity, access, maintenance and usability of the utilities and easements by the public utility itself will be preserved.

(Ord. No. 7075, § 2, 5-22-07)

Sec. 21-218. - Land development: permit requirement.

- (a) *Generally.* Prior to any development on any property in the area, the developer or person in charge or control thereof shall make application to the city engineer and obtain a land development permit ("LDP") authorizing development on the property in accordance with the provisions of this article. If approval of construction plans by the city engineer are otherwise required, the LDP must be approved and issued prior to approval of construction plans.

All development activity on the property shall be under the supervision of a professional engineer or his/her designated representative employed by the person or contractor in charge or control of the site of the development. No development activity shall occur on any property in the area until a land development permit has been issued pursuant to the provisions hereof.

- (b) *Minimal land development permit.* On a parcel of land less than one (1) acre in size if in the opinion of the city engineer only minor earth changes are required or to be made, he may issue a land development permit for the property with an application supported by a land development plan that does not contain all the elements, features and requirements of a land development plan as otherwise required herein.
- (c) *Applications for land development permits.*

- (1) A developer desiring to engage in development as herein defined in the area shall make application for a land development permit to the city engineer on a form provided for that purpose. The application shall be complete, signed and provide all information required. The application shall be supported and have attached thereto a land development plan as herein defined and contain all information and meet all requirements of this article. A complete application shall be submitted at least thirty (30) days prior to any planned development activity. An application will not be considered complete if any aspect of the land development plan or any supporting documents are not deemed sufficient by the city engineer or require further substantiation, revision or detail from the applicant.
 - (2) The city engineer will endeavor, within fifteen (15) working days after receipt of a completed application for a land development permit, to approve, disapprove or request further information or clarification in regard to an application. If an application is disapproved, the applicant will be advised, either verbally or in writing, and the reasons therefor. If further information is needed, the city engineer will specify the kind of additional information required. Within ten (10) working days after receipt of such additional information, if the same results in a completed application, a final decision shall be made by the city engineer to approve or disapprove the application.
 - (3) Provided; however, the failure of the city engineer to approve, disapprove or request further information in regard to any application for land development permit shall not be construed as an approval thereof nor constitute a waiver of any requirement of this article.
 - (4) Provided further, however, that the city engineer shall not issue a land development permit upon or in regard to any property within the corporate limits of the city that is zoned riverfront development unless and until the city council has granted final approval to the development in accordance with the zoning ordinance pertaining to the Riverfront Development District and the issuance of any such permit shall be in accordance with such approval.
- (d) *Land development permit required.* It shall be unlawful for any person to engage in development of any property in the area without having a land development permit issued pursuant to the provisions of this article unless otherwise exempt. It shall be unlawful for any developer to engage in development activity in the area in a manner that is in violation of the terms and conditions of a land development permit or the provisions of this article.
- (e) *[Exceptions.]* Land development permits are not required for:
- (1) Emergency repairs of a temporary nature made on public or private property which are necessary for the preservation of life, health or property and which are made under such circumstances where it would be impossible or impracticable to obtain a land development permit.
 - (2) Temporary excavation for the purpose of installing, maintaining, or repairing any public street, public utility facility or any utility service lines.
 - (3) Agricultural activities.
 - (4) Any lot within a subdivision or planned unit development having received final plat approval in accordance with applicable subdivision regulations, zoning ordinances and approved by the city engineer.
 - (5) Driveways or driveway approaches. (Driveway permit required instead in accordance with the provisions hereof)
 - (6) Modifications, alterations or additions to an existing single-family dwelling.
 - (7) Development activity on a lot for a single-family dwelling unit if the structure is not within a flood hazard area.
- (f) *Relocation of utilities a condition of permit.* It shall be a condition of all land development permit or permit (LDP) or driveway land development permit—Permit (DLDP) that the person and/or permittee shall relocate and/[or] re-establish all public utilities or public facilities including water, sewer, drainage structures, gas, electricity, CATV cable, publicly owned facilities including fiber cable,

streets, sidewalks, curbs, gutters, traffic signals or traffic control devices in accordance with the relevant owner's requirements and specifications at the person's or permittee's own expense.

- (g) *Public infrastructure improvements.* The city engineer or his/her designee may require as a condition of an LDP public infrastructure improvements to be installed consistent with the purpose and scope of this article when such improvements are deemed necessary for public health, safety, and welfare.
- (h) *Refusal to issue permit.* The city engineer may refuse to issue an LDP to a developer, where the developer has incomplete tasks within the permitting process on a separate project or the developer has incomplete permits on a separate project including but not limited to: incomplete inspections; stop work orders; unattained approvals; or any other non-compliance with applicable code.

(Ord. No. 7075, § 2, 5-22-07; Ord. No. 7254, §§ 2—4, 5-27-08; Ord. No. 7285, § 5, 7-29-08; Ord. No. 8555, § 3, 6-27-17; Ord. No. 8568, § 1, 7-25-17; Ord. No. 8603, § 2, 9-26-17)

Sec. 21-219. - Driveway land development: permit requirement.

- (a) *Permit required.* It shall be unlawful for any person to construct, reconstruct, alter, remove or replace any driveway approach, or any curb, guttering or sidewalk in connection therewith or to cause said work to be performed on any street or right of way within the corporate limits of the city without first applying for and receiving a driveway land development permit.
- (b) *Application for driveway land development permit.* Any person desiring to construct, reconstruct, alter, remove or replace any Driveway approach, or any curb, guttering or sidewalk in connection therewith or to cause said work to be performed on any street or right of way within the corporate limits of the city shall make application for a driveway land development permit (DLDP). The application shall contain such site, location and condition information as the city engineer shall deem necessary or desirable in order to determine whether or not the application is acceptable and in conformity with the provisions of this article. The application shall include a location/condition diagram, to be completed by the applicant, which shall depict the specific application of the standards and regulations of this article. Unless the application is made by the owner of the property, authorized representative or contractor, no permit shall be issued for the work. Each applicant for such a permit shall certify as to their respective capacity to make application for such a permit. As a condition for the issuance of the permit, the applicant shall agree to indemnify and hold harmless the city, its employees and agents from any liability to person or property resulting from any act or omission of applicant in performing the work.
- (c) *Preapproved permits.* Driveway approaches serving single-family residential lots in platted subdivisions and PUDs are deemed preapproved as a DLDP once the city engineer has approved the subdivision plat or PUD plan. Provided; however, such preapproval of a DLDP shall not apply to certain lots in a subdivision or a PUD, if the city engineer has indicated in regard to the same, either thereon or by separate document, that a separate individualized DLDP is required for said lot due to potential access concerns. The building official of the city shall not issue a building permit for a structure on any lot in a subdivision or PUD in regard to which the city engineer has made such an indication of the requirement for a separate DLDP.
- (d) *Maintenance of driveway approach.* As a further condition for the issuance of a DLDP, the owner of the property shall agree that all maintenance of said driveway approach shall be the owner's responsibility or his successors, heirs and assigns. The city engineer may, by written notice to the owner, require maintenance of a driveway approach when he determines that said driveway approach fails to comply with any applicable municipal ordinances or regulations or poses a danger to the public. The owner shall obtain a DLDP as required herein and promptly perform maintenance work required by the order. As a condition of issuing a DLDP, the owner, his successors, heirs or assigns shall agree to indemnify and hold harmless the city, its employees and agents from all liability to property or persons resulting from the owner, his successors, heirs or assigns failing to maintain the driveway approach.

- (e) *State highway system.* Permits granted by the Alabama Department of Transportation for any driveway approach work on any highway maintained by the state within the corporate limits shall be subject to approval of the city engineer in accordance with the terms and conditions herein but consistent with state regulations.
- (f) *Existing driveway approaches.* Whenever the city engineer shall find that an existing driveway approach was constructed contrary to the standards which were required at the time the driveway approach was constructed or presents a hazard to the public or to persons traveling upon the abutting roadway, the same is hereby declared to be a public nuisance and he may, by written order, direct that:
 - (1) The owner of the property which such driveway approach serves to remove the driveway approach and restore the curb or,
 - (2) Alter the driveway approach if it might thereby be corrected to comply with the present ordinance or,
 - (3) The driveway approach be relocated to safely serve the parcel of land or,
 - (4) The driveway approach be reconstructed so as to minimize the hazard to persons traveling upon the abutting roadway,
 - (5) Request the chief building official initiate demolition proceedings pursuant to Code of Ala. 1975 § 11-53B-1 et seq.

The written order shall set forth the reasons for its issuance and shall advise the owner as to the nature of the work he should perform, giving not less than thirty (30) nor more than sixty (60) days time for the completion thereof.

- (g) *Removal of abandoned driveway approaches.* Whenever a driveway approach has been abandoned, either by closing the entrance to the property served or by changing the use of the property served so that the driveway approach is no longer necessary or usable, it shall be the duty of the owner of the property served by said approach to remove the driveway approach, restore sidewalk, curb, gutter and street to the line and grade of the adjoining sidewalk, curb, gutter and street within thirty (30) days after receiving a written order for removal from the city engineer.
- (h) *[Service of order.]* Any written order required or given under the provisions of this section may be served on the owner of record or the person to whom the permit was issued by personally delivering a copy thereof to such person or by mailing a copy thereof certified registered mail to the owner's last known address; and if there should be more than one owner, then by such service upon each of them. In the event the owner is unknown, or his whereabouts unknown, the city engineer shall post the order on the parcel of land where the violation occurs or where the driveway approach is to be removed or altered. Should the owner of the abutting property fail to perform the work specified in the order within the time specified therein, the city engineer may cause the work required in these orders to be performed and seek reimbursement for all such cost.

(Ord. No. 7075, § 2, 5-22-07)

Sec. 21-220. - Waiver of certain technical specifications.

In the issuance of driveway or land development permits pursuant to and as required by this article, the city engineer shall issue the same based upon applications which are in compliance with the requirements of this article but, while substantively in compliance, are not fully or strictly in compliance with all the rules, regulations and technical specifications promulgated by the city engineer for such permits when:

- (1) It is necessary to implement the purposes of this article;
- (2) Conditions exist which were not accounted for or adequately addressed by said standard plans, specifications, and rules and regulations; and

- (3) The deviation or variance is not substantive and is noted on the permit along with the reasons therefore.

(Ord. No. 7075, § 2, 5-22-07)

Sec. 21-221. - Erosion control required generally.

Notwithstanding the fact that development activity on the property may be exempt from the requirements of a LDP or DLDP pursuant to the provisions of this article, any person causing any development, any earth change or constructing or reconstructing a driveway approach on any property, regardless of size, within the area shall take the necessary erosion control measures, utilizing best management practices, to provide for sedimentation facilities that prevent erosion and/or sedimentation in or upon city streets, public rights-of-way, public storm drainage facilities or public easements, public utilities, public water reservoirs, creeks, rivers and streams and/or property of others.

(Ord. No. 7075, § 2, 5-22-07; Ord. No. 7254, § 7, 5-27-08)

Sec. 21-222. - Inspections.

The city engineer may inspect any work on a driveway approach or development activity or any work in connection therewith pursuant to a permit issued in accordance with this article to determine that such activities are in accordance with the provisions of this article; except that when DLDPs were preapproved by the city engineer in single-family residential subdivisions, the building official or his designated representative shall be responsible for providing the required inspections. Such preapproved DLDPs shall be constructed and ready for inspection at the same time as the structure's "final inspection" required before the issuance of a certificate of occupancy by the building official.

(Ord. No. 7075, § 2, 5-22-07)

Sec. 21-223. - Enforcement and penalties.

- (a) If at any time development occurs on any property in the area or construction of a driveway approach not consistent with the requirements of the LDP or DLDP or the provisions of this article, a written notice to comply and/or to stop work may be given by the city engineer stating the nature and location of the alleged noncompliance and specifying what remedial steps are necessary to bring the matter into compliance and, at the option of the city engineer, ordering that all development activity or construction or reconstruction of driveway approaches cease. It shall be unlawful for a person or developer to continue to engage in development or construction or reconstruction of driveway approaches after the issuance of a stop work order by the city engineer or for the person or developer to fail or refuse to take the remedial measures necessary to bring the activity into compliance within the time required. In addition, the city engineer may request the office of the city attorney to pursue civil sanctions and remedies against the developer.

The executive director of infrastructure and public services and any of his/her designated representatives, and the executive director of urban development and any of his/her designated representatives may also issue stop-work orders under the same circumstances, provided; however, if such a stop-work order is issued, the city engineer shall be notified.

- (b) Any person or developer who shall engage in development activity or construct or reconstruct any driveway approach in violation of the provisions of this article or technical requirements promulgated by the city engineer and adopted by reference herein or who shall refuse to obey any lawful order given by the city engineer in relation thereto shall be guilty of a misdemeanor punishable pursuant to section 1-8 of the City Code.

- (c) It shall be unlawful for any person, property owner or developer to allow or permit the accumulation or discharge of dirt, silt, mud, debris, sedimentation or earth materials (sediment or sedimentation) onto property of others, city streets, rights-of-way and/or city storm drainage easements or facilities, public water reservoirs, creeks, rivers and streams due to the failure to provide or maintain adequate sedimentation or erosion control facilities.
- (d) It shall be unlawful for any person, property owner or developer to engage in earth moving or grading activity or any other development activity that in any manner impairs, impedes or interferes with the operation or maintenance of public utilities or public utility easements or to allow or permit the accumulation or discharge of dirt, silt, mud, debris, sedimentation or earth materials (sediment or sedimentation) over or upon public utilities or public utility easements in such a manner as to impair, impede or interfere with the operation or maintenance of a public utility or public utility easement.
- (e) It shall be unlawful for any person, property owner, permittee or developer to fail to relocate and/re-establish all public utilities or public facilities including water, sewer, drainage structures, gas, electricity, CATV cable, publicly owned facilities including fiber cable, streets, sidewalks, curbs, gutters, traffic signals or traffic control devices in accordance with the relevant owners requirements and specifications.
- (f) In addition to any criminal or civil action the city may take in regard to such prohibited activities, any person, Developer or property owner who fails to comply with the erosion control requirements of this article or allows sedimentation, erosion and/or siltation to occur on city streets, rights-of-way, public water reservoirs, creeks, rivers and streams and/or city storm drainage easements or facilities will be in violation of the this article and the city engineer may give said developer, person or property owner written notice to remove any sedimentation within a stated number of days. If any developer, person or property owner fails to remove said sedimentation and restore said city streets or rights-of-way, public water reservoirs, creeks, rivers and streams after such written notice is provided by the city engineer, the city may take action to remove said sedimentation and restore said streets or rights-of-way, public water reservoirs, creeks, rivers and streams and require said developer, person or property owner to pay all cost of said removal and restoration. Emergency situations may require immediate cleanup (without notice to the person or property owner) and the city engineer may direct that city crews remediate the sedimentation and invoice the person or property owner.

(Ord. No. 7075, § 2, 5-22-07; Ord. No. 7254, § 8, 5-27-08; Ord. No. 8603, § 3, 9-26-17)

Sec. 21-224. - Technical specifications.

The city engineer is hereby authorized and directed to develop and promulgate all necessary rules and regulations of technical specifications and design criteria relating to any permit authorized to be issued by this article and not in conflict with any term or condition of this article and to cause the same to be printed in book or pamphlet form for adoption by the city council in accordance with Code of Ala. 1975 § 11-45-8(c).

(Ord. No. 7075, § 2, 5-22-07)

Sec. 21-225. - Permit expiration.

An LDP shall expire in eighteen (18) months from the date it is issued unless the developer commences construction and continues work without a stoppage of work that exceeds one hundred eighty (180) consecutive calendar days. In the event that an LDP expires, the developer will have to make application for a new LDP. This section shall only apply to LDPs issued after August 1, 2017.

(Ord. No. 8568, § 1, 7-25-17)

Sec. 21-226. - Public infrastructure improvement bonds.

- (a) The city engineer may require two (2) different public infrastructure improvement bonds (PIIB), on forms provided by the city.
- (1) The first PIIB (performance) may be required prior to the issuance of an LDP and shall cover damage to existing public infrastructure within construction limits during construction and failure to construct required public infrastructure improvements.
 - a. The performance bond shall include good and sufficient surety in an amount equal to 1.10 times the amount of the construction costs of the public infrastructure improvements, less water distribution system improvements. The surety thereon must be approved by the city attorney and shall be one of the following: a cash deposit, an irrevocable letter of credit, or an insurance company doing business by an agent in the state through an attorney-in-fact.
 - b. The performance bond shall be executed and submitted prior to the issuance of an LDP. The performance bond will be released after acceptance by the city of the covered public infrastructure improvements.
 - (2) The second PIIB (maintenance) shall cover maintenance of the constructed public infrastructure improvements for no less than one year after acceptance by the City of the public infrastructure improvements.
 - a. The maintenance bond shall include good and sufficient surety in an amount equal to ten (10) percent of the construction costs of the public infrastructure improvements. The surety thereon must be approved by the city attorney and shall be one of the following: a cash deposit, an irrevocable letter of credit, or an insurance company doing business by an agent in the state through an attorney-in-fact.
 - b. A fully executed maintenance bond shall be submitted in order for the covered public infrastructure improvements to be accepted by the city. The maintenance bond will be released when the maintenance period expires provided that all noted deficiencies, if any found during final inspection, have been corrected. The maintenance bond amount and/or duration may be increased by the city engineer where testing or other information indicates construction of the public infrastructure improvements does not meet minimum standards.

(Ord. No. 8603, § 4, 9-26-17)

Secs. 21-227—21-235. - Reserved.