

Article 2. Drainage Code

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**Sec. 18-201. SHORT TITLE.**

This Article 2 of the Land Development Code shall be known as and may be cited as the Drainage Code of the City of Pinellas Park, Florida. (Ord. No. 1519, 8-8-1985)

**Sec. 18-202. DEFINITIONS.**

(A) INTERPRETATION OF CERTAIN WORDS AND TERMS. For the purpose of this Article 2 of the Land Development Code, the following terms, phrases, words and their derived form shall have the meaning given herein. When consistent with the context, words used in the present tense shall include the future, words in the plural number include the singular number, and the words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. (Ord. No. 1519, 8-8-1985)

(B) DEFINITIONS.

ABSORPTION AREA. Any area designed, or natural, capable of allowing stormwater percolation. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

BUILDABLE AREA. The area of a site in which development, as defined herein, is permitted without variances. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

BUILDING. Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, process, equipment, goods, or materials of any kind or nature. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

CITY. Is the City of Pinellas Park, Pinellas County, Florida. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

CITY MANAGER. The Chief Administrative Officer of the City or his designee for the administration or enforcement of this Article 2 of the Land Development Code. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

DEPARTMENT. Is the Building Development Division of the City of Pinellas Park, Pinellas County, Florida. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

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**DESIGN PROFESSIONAL.** A person who is licensed to provide design services pursuant to Florida Statute as an architect or engineer. (Ord. No. 3305, 2-10-2005)

**DESIGN STORM.** The storm frequency as outlined in the design criteria, Section 18-203 of this Article 2 of the Land Development Code. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**DETENTION.** The temporary collection and storage of surface water for subsequent controlled discharge at a rate which is less than the rate of inflow. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**DEVELOPER.** Any person or entity of any kind, engaged in any type of development of improved or unimproved land. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**DEVELOPMENT.** The construction or installation of a structure, impervious surface, drainage facility or other improvement or part thereof, whether or not the land has been previously developed. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**DRAINAGE FACILITY.** Any component of the drainage system. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**DRAINAGE PLAN.** The detailed analysis required by Section 18-203 of this Article 2 of the Land Development Code. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**DRAINAGE SYSTEM.** The system through which water flows from the land. It includes all watercourses, waterbodies, and wetlands. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**EROSION.** The damage caused by unrestricted surface waters which shall include the movement of silt, soils or foreign material. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**EXCAVATOR.** Any person who shall remove soil as those terms are defined herein this Article 2. (Ord. No. 3305, 2-10-2005)

**FLOOD.** The inundation of areas not ordinarily covered by water. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**GRADING or LAND ALTERATION.** The moving of earth or materials for the purpose of development or temporary alteration of existing topography of the land. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**IMPERVIOUS SURFACE.** The surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. The term includes most conventionally surfaced streets, roofs, sidewalks, parking lots, any granular material such as concrete, asphalt, crushed stone, rock, gravel, shell or similar material which interferes with the natural ground absorption of stormwater and other similar structures. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**IMPROVED LAND.** Land that has been altered or improved from its natural state including, but not limited to grading, paving, drainage, installation of structures. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**LAND.** Any parcel of land, or portion thereof, lying within the corporate limits of the City of Pinellas Park, Florida.

**OWNER.** The person in whom is vested the fee ownership, domination, or title of property, i.e., the proprietor. This term may also include a tenant, if chargeable under this lease for the maintenance of the property, and any agent of the owner or tenant. Owner shall include a public entity when that entity has a right-of-way easement, or other interest in or adjacent to the property. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

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**PERSON.** Any and all individuals or entities. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**REMOVE.** To dig; to excavate; to grade; level or otherwise change the location or contour of the land; to transport; to supply another area. This term shall not be construed to include plowing, spading, cultivating, harrowing or discing of soil, or any other operation usually and ordinarily associated with the tilling of soil for agricultural or horticultural purposes. (Ord. No. 3305, 2-10-2005)

**SEDIMENTS.** Solid material, whether mineral or organic, that is in suspension, and is being transported, or has moved from its site of origin. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)

**SEDIMENTATION FACILITY.** Any structure or area which is designed to hold runoff water until suspended sediments have settled. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**SITE.** Any tract, lot or parcel or combination of tracts, lots or parcels of land which are in one (1) ownership, or are contiguous and in diverse ownership where development is to be performed as a part of a unit, subdivision, or project or which is site planned as a whole. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**SOIL.** Any earth, top soil, sand, clay, loam, gravel, shell, humus, rock or dirt, without regard to the presence or absence therein of organic matter. (Ord. No. 3305, 2-10-2005)

**STRUCTURE.** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, including but not limited to buildings, towers, storage tanks, walls, air-conditioning units, pool pumps, heat pumps, antennas, billboards, etc; but not including cement slabs or decks at ground level or less than six (6) inches above finished ground level. (Ord. No. 3305, 2-10-2005)

**SUBSURFACE DRAINAGE.** Any approved method used as a vehicle to convey groundwater. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**UNIMPROVED LAND.** Land that has not been altered or improved from its natural state including but not limited to grading, paving, drainage, installation of structures. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**VEGETATION.** Any and all plant growth, such as trees, shrubs, vines, ferns, mosses, and grasses. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**WATER or COMMUNITY WATERS.** Any and all water on or beneath the surface of the ground or in the atmosphere. It includes the water in any watercourse, water body or drainage system. It also includes diffused surface water and water percolating, standing or flowing beneath the surface of the ground, as well as coastal waters. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**WATER BODY.** Any natural or artificial pond, lake, reservoir or other area which has a discernible shoreline. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**WATERCOURSE.** Any natural or artificial stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, street, roadway, swale, or wash in which water flows in a definite channel, bed or banks. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**WATERSHED AREA.** An area allowing or generating storm or irrigation water runoff. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

**WETLANDS.** Those areas designated as such by the Department of Environmental Protection, or governing agency(s).

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#### **Sec. 18-203. DEVELOPMENT SUBJECT TO PROVISIONS OF THIS ARTICLE.**

- (A) **DEVELOPMENT REQUIREMENTS.** If the development is on an undeveloped site, the entire site shall comply with the requirements of this Article 2 of the Land Development Code, regardless of the percentage of development. If a previously developed site has a combined total of existing and proposed development that exceeds fifty (50) percent the buildable area, the entire site shall conform to the requirements of this Article 2 of the Land Development Code as if the entire site is being developed, unless the site has been included in a previously approved master drainage plan and the proposed improvements conform to that plan. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
- (B) **APPROVAL REQUIRED.** Prior to development, or grading and land alteration of any parcel located within the City of Pinellas Park, approval of a drainage plan shall be obtained from the City. No such approvals shall be obtained from the City until the site plan for the property has been approved and, if required, the plat therefor has been approved. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
- (C) **APPLICATION: APPROVAL OF PLAN.** In order to obtain approval of a drainage plan, the developer shall submit a fully completed application on a form provided by the City, together with five (5) copies of a proposed drainage plan prepared by a Design Professional. The drainage plan shall include an up-to-date survey of the proposed land to be developed, redeveloped or graded and land altered plan showing the number and location of existing trees, adequate elevations or contours to determine the existing and proposed drainage patterns, and all ditches, canals, streams, storm sewers, and all other key topographic features located within or directly adjacent to or serving the land to be developed or cleared. (The calculations for runoff, detention and pipe sizes shall also be included. The City may require such additional information as may be deemed necessary to determine whether the plan meets the requirements of this Article 2 of the Land Development Code). The drainage plan shall also contain the following: (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
1. The name, address, and telephone number of the owner and the developer, and the legal description of the property. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  2. A plan for the control of erosion and sedimentation which specifies in detail the type and location of control measures, the stage of development at which they will be put into place or used, and provisions for the maintenance thereof. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  3. Provide copies of all permit applications submitted to other jurisdictional entities. (Ord. No. 3305, 2-10-2005)
- (D) **EXEMPTIONS.** The following shall be exempt from the requirements of this Article 2 of the Land Development Code: (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
1. Single-family homes and duplexes. The owner of an individual single-family home or duplex is exempted from the requirements of this Article 2 of the Land Development Code, except that the placement, installation or construction of impervious surfaces shall not exceed sixty (60) percent of the lot and/or parcel area, and that the grading shall convey the drainage from the rear of the parcel to the front, allowing the runoff onto the right-of-way. If existing elevations will not allow the grading to be done in this manner, it shall be graded per a grading plan prepared by a Design Professional and approved by the City. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
  2. Minor additions, or improvements to existing development. Minor additions or improvements to an existing development are exempted from the requirements of this Article 2 of the Land Development Code. For the purpose of this Article 2 of the Land Development Code, a minor addition, or improvement is defined as additions which do not increase existing gross floor area by more than twenty (20) percent or vehicular use areas by more than twenty (20) percent. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

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3. Total impervious area. If the total impervious area is not increased by the improvement, such improvement is exempt from the requirements of this Article 2 of the Land Development Code. (Ord. No. 3305, 2-10-2005)
4. Exemption from Southwest Florida Water Management District. Any development that is not required to provide stormwater retention by the State of Florida, Department of Environmental Protection, Southwest Florida Water Management District or other governing agencies having jurisdiction, is exempt from this Article 2 of the Land Development Code; unless the City determines that the drainage basin in which the improvement is taking place, is prone to flooding and/or is inadequate to accommodate the development. (Ord. No. 3305, 2-10-2005)
5. Damage beyond owner's control. If the structure is damaged or destroyed by means beyond control of the owner, the repairs required to restore the damaged structure to its' original condition are exempt from this Article 2 of the Land Development Code. (Ord. No. 3305, 2-10-2005)

#### **Sec. 18-204. CONTROL REQUIREMENTS FOR STORMWATER RUNOFF.**

Drainage plans shall be approved only if they establish that the proposed development or grading and land alteration plan comply with the following standards: (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

- (A) No development, grading, or land altering subject to this Article 2 of the Land Development Code, shall be allowed to discharge more stormwater onto adjacent right-of-way or property than was discharged from the site in its natural unimproved state. In the event of the absence of data (such as a redevelopment project) to adequately determine the discharge rate from the natural unimproved state, the existing runoff discharge may be calculated using a runoff co-efficient of two-tenths (0.2) unless the City after consultation with the Design Professional of record determines that this formula would not provide an adequate computation of runoff in any given instance because of unique or unusual conditions. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
- (B) No proposed development, grading, or land alteration subject to this Article 2 of the Land Development Code shall cause erosion or flooding of adjacent areas during or after construction. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
- (C) No development, grading, or land alteration subject to this Article 2 of the Land Development Code, shall impede the drainage of adjacent properties. (Ord. No. 3305, 2-10-2005)
- (D) No drainage runoff shall discharge onto adjacent properties unless part of an approved drainage plan. (Ord. No. 3305, 2-10-2005)
- (E) The drainage runoff of adjacent properties shall be considered and accommodated for, unless it can be determined that due to unique or unusual conditions, a portion of the drainage from adjacent properties cannot be accommodated, then the drainage of that portion may be permitted to drain as it has historically flowed, prior to development, grading or land alteration as determined by the City. (Ord. No. 3305, 2-10-2005)
- (F) Stormwater runoff calculations. The proposed pipe sizes, detention/retention areas, and other proposed improvements shall provide adequate drainage retention control. In determining runoff, pipe sizes, detention requirements, and other applicable requirements for the site to be developed, the following criteria and methods specified in this Subsection shall be used: (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
  1. Criteria for Calculating Stormwater Runoff.
    - (a) The maximum rate of runoff shall be based on the Rational Formula,  $Q = C ia$ , where "Q" is the peak runoff in cubic feet per second "i" is rainfall intensity in inches per hour, "a" is the drainage areas in acres and "C" is co-efficient of runoff. If, in the opinion of

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the City after consultation with the Design Professional of record, this formula would not provide adequate computation of runoff in any given instance because of unique or unusual conditions, the City may require that another recognized method be used. In large drainage basins, methods such as the Soil Conservation Service, hydrograph, or stream gauging may be utilized. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

- (b) The co-efficient of runoff shall be determined by the type of development (existing and future), the soil characteristics and the topography of the land. The following table listing general ranges shall be used, subject to variations in accordance with generally accepted scientific principles. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

Commercial	Downtown areas	0.70—0.95
	Neighborhood areas	0.50—0.70
Detention/retention ponds		1.00
Drives and walks		0.75—0.85
Industrial	Light	0.50—0.80
	Heavy	0.60—0.90
Lawns	Sandy soil, flat (2% slope)	0.10—0.15
	Sandy soil, avg. (2—7% slope)	0.15—0.20
	Clayey soil, flat (2% slope)	0.14—0.20
	Clayey soil, avg. (2—7% slope)	0.20—0.30
Parks		0.10—0.25
Playgrounds		0.20—0.35
Residential	Single-family areas	0.30—0.50
	Multi-units, detached	0.40—0.60
	Multi-units, attached	0.60—0.70

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	Apartment dwelling areas	0.50—0.70
Roofs		0.75—0.95
Streets and vehicular use areas		
	Asphaltic	0.70—0.95
	Concrete	0.80—0.95
	Brick	0.60—0.85
Unimproved areas		0.10—0.30

(Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)

- (c) The rainfall intensity shall be determined by the current State of Florida, Department of Transportation rainfall intensity curves for Zone VI Tampa, or rainfall intensity curves for St. Petersburg (to be developed in the future), whichever the City after consultation with the Design Professional of record deems more appropriate for the particular site. The time of concentration shall be based on the Department of Transportation Velocity of Runoff curves or such other recognized engineering methods. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
  - (d) The design storm shall be determined by the size of the drainage basin or the street type (major, arterial, boulevard, etc.) at the discretion of the City. When the drainage basin exceeds one (1) square mile a twenty-five-year design storm shall be used. For drainage areas less than a square mile, a ten-year design storm shall be used. When in the opinion of the City, after consultation with the Design Professional of record, design criteria specified herein is inappropriate due to unique or unusual conditions, the design storm criteria may be adjusted in accordance with recognized engineering practices. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
2. Criteria for determining stormwater detention.
- (a) All proposed detention areas shall be designed to comply with the criteria listed above and design calculations shall be submitted with the site plan. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
  - (b) For calculation of volume required a minimum storm duration of one (1) hour shall be used. If the time of concentration exceeds one (1) hour, the time of concentration shall be used. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
  - (c) The minimum freeboard for basins shall be six (6) inches between design high water and top of bank, based on the Florida Department of Transportation, Zone 6 Rainfall Density 25-year storm event. (Ord. No. 3305, 2-10-2005)

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#### (G) DETENTION/RETENTION AREA DESIGN.

1. Detention areas shall be designed, where possible, so that they will be completely dry within three (3) days. The full area of such detention areas, including banks and bottom, shall at all times be sodded or grassed to eliminate areas of unprotected soil. Detention areas that contain water continuously or more than three (3) days following rain, shall be designed to the maximum extent possible, to provide for maintenance of aquatic life to destroy mosquito larva. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
2. The minimum design criteria for proposed detention areas shall be as follows: (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
  - (a) Detention pond. Surface area, depth, bank slopes and outfall shall be designed according to site requirements and City specifications. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
  - (b) Grass, loose rock or landscaped absorption areas. Surface area, configuration and type shall be designed according to site requirements and shall be subject to review and approval by the City. A percolation test shall be required to verify ground absorption capabilities. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
  - (c) Subsurface drain or percolation field. Length, size and depth of drain pipe, size and type filter material and location of field shall be designed according to site requirements, and shall be subject to the review and approval of the City. A percolation test shall be required to verify ground absorption capabilities. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
  - (d) Vehicular use areas designed with restrictive stormwater inlets or restrictive pipe sizes. Parking areas shall be designed with sufficient detention areas, so that when used in conjunction with a restrictive storm sewer system, they shall control the volume of water runoff to conform to the requirements of this Section. (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)

#### (H) GRADING PLAN.

1. A grading plan showing the building site and proposed surface drainage, including proposed site elevations and elevations of abutting properties, shall be submitted to the Building Division for approval at the time of filing the application for a building permit. No grading or other development of the site may take place prior to approval of the grading plan by the City. (Ord. No. 1708, 2-13-1986; Ord. No. 2129, 3-26-1992)

Lots shall be graded in such a manner that all surface drainage shall be carried to the front of the lot. However, if the City Engineer determines that unique or unusual conditions exist which would render the grading of a lot in this manner to be inconsistent with sound engineering practices, then the City shall grant a partial or total waiver to this requirement; provided, however, that any grading plan approved by the City Engineer must be consistent with sound engineering practices. Any such waiver must be in writing and approved by the City Engineer. (Ord. No. 1708, 2-13-1986; Ord. No. 2129, 3-26-1992; Ord. No. 3305, 2-10-2005)
2. All finished floor elevation shall meet the requirements of Section 18-911, "Finished Floor Elevation", of the City's Land Development Code. (Ord. No. 1708, 2-13-1986; Ord. No. 2129, 3-26-1992; Ord. No. 3305, 2-10-2005)



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**Sec. 18-205. REQUIREMENTS FOR SLOPES, FENCING AND SETBACKS.**

(A) **SIDE SLOPES.** The side slope of any excavation other than for the purpose of a drainage retention/detention basin shall in its final form have a side slope no steeper than 8:1 (eight (8) feet horizontal to one (1) foot vertical) from the top edge of the excavation to a depth of six (6) feet below the water table. All side slopes of excavations and retention/detention basins shall be sodded to prevent erosion.

(B) **SETBACKS.**

1. No excavation of soil, except for the purpose of a drainage retention/detention basin, shall be within one hundred fifty (150) feet of a right-of-way of an existing road or street when soil removal exceeds two hundred fifty (250) cubic yards.
2. A five-foot setback from any property line, right-of-way, or easement is required for a retention/detention basin or swale. If the City determines, after consultation with the Design Professional of record, that it will not effect the safety or welfare of the public or effect any utilities or future plans of the City, such setback may be no less than two (2) feet from any property line, right-of-way, or easement, if the side slope of such retention/detention basin or swale is 3:1 or greater.

(C) **FENCING, BARRIER OR ENCLOSURES.** The required protection for retention/detention basins shall be as follows:

A minimum of a four-foot high fence, barrier, or enclosure is required and located as follows:

1. When the retention basin is designed as a wet pond and is less than five (5) feet from the property line.
2. Such fence shall be setback five (5) feet from areas designed for vehicular or pedestrian use such as: driveways, parking areas and sidewalks.
3. Surrounding detention/retention basins with side slopes steeper than 3:1 (three-foot horizontal, one-foot vertical).
4. Depth and slope below the water table shall be determined by the City after consultation with the Design Professional of record in accordance with recognized engineering principles, including requirements for preventing the pollution of the underground water courses to be determined according to the nature of the particular sub-strata soil structure.

(Ord. No. 3305, 2-10-2005)

**Sec. 18-206. SOIL REMOVAL.**

(A) **PERMITS TO REMOVE SOIL.**

1. No person shall remove soil in an amount in excess of two hundred fifty (250) cubic yards, from or upon any land except in connection with the subdivision and improvement of land which has received final approval from the City, unless and until he/she has received approval from City Council and a permit has been issued by the Building Development Division. Such approval shall not be given by City Council and such permit shall not be issued by the City unless and until the applicant has complied with all of the terms and provisions of this Section. No such approval or permit, however, shall be required in connection with the following: (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
  - (a) Construction or alteration of one building involving excavation less than five hundred (500) cubic yards. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)

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- (b) Construction of underground utility lines. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
- (c) Cellars or any excavation required to prepare footings or other base for an approved structure. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
- (d) Septic tank or other sanitary installations. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
- (e) Driveways involving excavation less than three hundred (300) cubic yards. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
- (f) Canals or ditches designed for drainage purposes as a part of or connecting to the area wide drainage system. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
- (g) Excavation for the construction of a detention/retention basin as a part of an approved drainage system. (Ord. No. 3305, 2-10-2005)
- (h) Excavation required for the maintenance of an approved retention/detention basin. (Ord. No. 3305, 2-10-2005)

For the purposes of this Section, the amount of soil removed shall be calculated upon the basis of the total amount of soil so removed in connection with the overall scheme of development or use of land, irrespective of the amount of soil which may be removed at any one (1) time. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)

- 2. No owner or tenant of any land, or contractor or subcontractor shall cause, allow, permit or suffer any soil in or upon such land to be removed by any person unless such person has first obtained the permit referred to above. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - 3. No more soil shall be removed than is reasonably necessary for the development and use of the land. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
- (B) APPLICATION FOR PERMIT. The procedure for applying for issuance of a soil removal permit shall be as follows: (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
- 1. The City Building Development division shall prepare and supply application forms for a soil removal permit under this Section. Any applicant for a soil removal permit shall submit two (2) copies of such application setting forth: (Ord. No. 3305, 2-10-2005)
    - (a) The identity and address of the applicant; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
    - (b) The description of the lands in question; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
    - (c) The identity and address of the owner of the lands; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
    - (d) The purpose or reason for moving the soil; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
    - (e) The kind and quantity in cubic yards of soil to be moved; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
    - (f) In case of removal to another location, the place to which the soil is to be removed and the kind and quantity of soil to be removed; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)

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- (g) The proposed date of completion of the work; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (h) Such other pertinent data as the City Council may hereafter by Resolution require; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
  - (i) Equipment to be used in excavation and removal of soil; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (j) Number and size of trucks to be used in removal; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (k) Streets which the applicant wishes to use; and (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (l) That the applicant consents and authorizes any authorized representative of the City to go upon the lands covered thereby for the purpose of inspection, etc. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
2. The applicant shall submit with the application five (5) copies of a survey/site plan certified by a Florida licensed design professional. The plat shall show: (Ord. No. 3305, 2-10-2005)
- (a) A key map showing the entire lot or lots in the application and the relationship of the lot or lots to the surrounding areas; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (b) The tract name, tax map sheet, block and lot numbers, date, north arrow, graphic scale and the names and addresses of record owner or owners, person who prepared the map, and the names of all adjoining property owners within three hundred (300) feet as disclosed by the most recent tax records and showing all building within three hundred (300) feet of the property line; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (c) Acreage of lot or lots in the application to nearest tenth of an acre; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (d) Sufficient, elevations or contours, at a two-foot contour interval based on mean seal level (USGS) datum, to determine the general slope and drainage of the land as it presently exists. Maps shall be drawn at a minimum scale of 1" = 50'. High and low points shall be indicated to the nearest tenth of a foot in elevation, in addition to centerline elevations of existing and proposed streets at 100-foot intervals. Cross-sections of the property at one-hundred-foot intervals (one (1) direction only) and present and proposed elevations on a one-hundred-foot grid shall also be required; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (e) Quantity in cubic yards of soil involved in the work, and method of computation, including figures; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (f) Topography within two hundred (200) feet of boundary of property affected by the application; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (g) Proposed slopes and lateral supports; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (h) Present and proposed surface water drainage and proposed methods to be used to prevent erosion and drainage problems during the progress of the operation indicating the location of all erosion and sediment control devices on plan; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

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- (i) The location of existing and proposed property lines, easements, streets, buildings, water courses, railroads, bridges, culverts, drain pipes, rights-of-way, and drainage easements and rights-of-way, and any natural features such as wooded areas, swamps and rock formations; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (j) Plans of proposed utility layouts, sewers, storm drains, water, gas and electricity, if required, showing feasible connections to existing or any proposed utility systems; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (k) A copy of any protective covenants or deed restrictions applying to the lot or lots identified in the application; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (l) The applicant shall be required to furnish elevations on the same one-hundred-foot grid layout no later than thirty (30) days after the work is completed, and these requirements shall be covered by performance bond; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (m) The applicant shall furnish and adequately marked, or otherwise clearly identify, control points along a base line used to establish the above one-hundred-foot grid, and this requirement shall be covered by performance bond; and (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (n) Such other pertinent data as the City may require. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
3. The original and five (5) copies of the application shall be submitted to the City with a fee in the amount computed at the rate of Seven Cents (\$0.07) per cubic yard to be removed, as stated in the application and certified on the topographical map; provided, however, that in no event shall such fee be less than Seventy Dollars (\$70.00). The City Council may, at its discretion, waive such application fee in whole or in part for proposed removal of soil from property owned by any governmental unit or agency where such removal is done by or at the direction of that governmental unit or agency in connection with the construction of improvements for that unit or agency upon the land from which the soil is removed and which require the removal of the soil. In the event of refusal of the soil removal permit, all that portion of the fee paid in excess of the actual expense to the City in connection with the application shall upon request by voucher be refunded to the applicant. Within sixty (60) days after receipt of said application or within such longer period of time to which the applicant may agree, the City shall present a recommendation of approval or denial of the application, together with his reasons for such recommendation, to the City Council. City Council shall then approve or deny said application by resolution. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
4. The soil permit shall be in such form as may be prescribed by the City Council and shall contain any special conditions set forth by the City. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
5. In considering and reviewing the application, the City shall take into consideration the public health, safety and welfare and particularly the following factors: (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
- (a) Soil erosion by water and wind; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (b) Surface water drainage; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (c) Soil fertility; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (d) Lateral support of abutting streets and lands; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)

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- (e) Public health and safety; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (f) Land values and uses; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (g) Such other factors as may bear or relate to the coordinated, adjusted and harmonious physical development of the City; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (h) The effect of flooding upon the premises in question; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (i) Traffic congestion; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (j) The creating of sharp declivities, pits or depressions; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (k) Preservation of existing water courses or proposal to change the same; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (l) Overall aesthetic considerations of the area surrounding the proposed excavation; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (m) Zoning and land use classification; and (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (n) The proposed uses surrounding the excavation site. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
6. In the event that a soil removal permit is issued, the applicant shall proceed with the work within one hundred twenty (120) days after the resolution of the Council authorizing the City Building Development Division to issue such permit. In the event that the work is not commenced within one hundred twenty (120) days, the soil removal permit shall expire and so stand revoked, and the applicant shall no longer have the right to remove any soil. Any soil removal permit issued by the City shall not be assignable or transferable except upon written permission of the City Manager or designee, which approval shall not be unreasonably withheld. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
7. Upon the expiration of the time limit of the permit, in the event that the amount of soil removed is less than that originally applied for, an application may be made for renewal to continue the work. In this event, that portion of the fee originally filed with the City Clerk equal to the number of cubic yards of unremoved soil at Seven Cents (\$0.07) per cubic yard would be forfeited to the City but may be used as part or all of any future application fee upon recommendation of the majority of City Council. Such application for renewal shall be made by petition to the City Council and shall set forth therein just cause for the renewal. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
- (C) RECLAMATION AND RESTORATION OF EXCAVATED LAND.
1. Before any person shall be eligible to obtain a permit for soil removal under this Section, they shall submit for approval a written reclamation and restoration plan for the land from which the soil is to be removed to City Council, which shall provide for the restoration of the land to its condition immediately prior to the removal of the soil, to a condition which in the opinion of City Council, is more desirable than the condition thereof immediately prior to excavation when considered in accordance with the standards provided herein. The original and four (4) copies of such plan shall be filed with the City Building Development Division at the same time as the application for the soil removal permit. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

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2. The plan for reclamation and restoration shall provide for, as a minimum, all of the following standards: (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985)
  - (a) Control of the physical and chemical quality of the water draining from the land from which the soil is to be removed; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985)
  - (b) Prevention of flooding in the City of Pinellas Park; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (c) Soil stabilization, including grading, regrading, contouring and restoration of vegetation; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (d) Elimination of health and safety hazards; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (e) Conservation and preservation of remaining natural resources, including trees; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (f) Time schedule for completion of recovery and reclamation, and the various phases; (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
  - (g) The estimated cost of such restoration and reclamation thereof. v

Such plan shall be accompanied by all records, drawings, sketches, maps, and other documents necessary to adequately explain or describe all elements thereof. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)

3. The plan for restoration and reclamation shall be considered by the City Council at the same time and as a part of the application for soil removal as provided for elsewhere herein. In considering and reviewing this plan, City Council shall take into account the same factors to be taken into consideration in its review and consideration of the application for soil removal generally. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
  4. As-built drawings shall be submitted for the review of the City Building Development Division to verify compliance with the approved restoration and reclamation plan. Bonds required by this Section shall not be released until as-builts have been received and approved. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
- (D) PERFORMANCE BOND REQUIRED. The plan for reclamation and restoration required under this Section shall be accompanied by the filing of a performance bond issued by a recognized surety licensed to do business in this State or such other equivalent bond in an amount to be determined sufficient by the City to insure the completion of the reclamation and restoration within the time specified in the application. The bond shall be conditioned upon full and faithful performance by the principal of all proposed reclamation and restoration work within the time specified in the application. In addition, the bond shall be conditioned upon the repair, at the expense of the owner or the applicant, of any street damaged by the transportation of soil in connection with the application. If, in the judgment of the City, such repairs are deemed necessary. If at any time the amount of such bond is deemed by the City to be insufficient to cover the cost of the reclamation and restoration as approved, or/or any street repairs which may be deemed necessary by the City to sufficiently cover such costs. The term "expense" as used in this Section includes the costs incurred and supervision required by the City in connection with such repairs. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
- (E) OWNER'S CONSENT. Before issuance of any permit under this Article 2 of the Land Development Code the applicant shall furnish to the City any consent necessary to go upon the property to inspect or complete any work necessary to comply with the terms of this Article 2 of the Land Development Code. If the applicant is not the owner, the applicant shall furnish the City with the consent of the owner to go upon the owner's property to inspect or complete all work necessary to comply with this Article

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2 of the Land Development Code. Such consent shall be in writing in such form as shall be approved by the City Attorney and shall be accompanied by affidavit of the applicant, certifying his authority to give permission for the required entry upon the property. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3302, 2-10-2005)

- (F) REVOCATION OF PERMIT. In the event that, in the opinion of the City, the project, or any part thereof, including restoration and reclamation, has been abandoned, is unnecessarily delayed, or cannot be completed at the rate of progress within the time specified in the soil removal permit, or that there is a willful violation of any of the terms of the soil removal permit, then the City may declare a default and notify the applicant to discontinue the project. The City may revoke the soil removal permit or may call upon the surety to complete the project. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
- (G) ENFORCEMENT. In addition to any other penalties provided for in this Article 2 of the Land Development Code, any person who shall violate this Section shall, upon conviction thereof, pay a fine not exceeding Five Hundred Dollars (\$500.00). Each day that a violation shall continue shall constitute a separate offense. (Ord. No. 1486, 4-11-1985; Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)

#### **Sec. 18-207. VARIANCES.**

Where strict adherence to the provisions of this Article 2 of the Land Development Code would, as a result of special conditions, result in unnecessary hardship, the City Council may, upon receipt of a written request authorize a variance. However, such variance will not be granted unless the City Council finds: (Ord. No. 1519, 8-8-1985; Ord. No. 3305, 2-10-2005)

- (A) That special conditions and circumstances exist which are peculiar to the land or development in question, and which are not applicable to other lands or development within the City; (Ord. No. 1519, 8-8-1985)
- (B) That a literal interpretation of the provisions of the Article 2 of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties or development within the City; (Ord. No. 1519, 8-8-1985)
- (C) That the special conditions and circumstances do not result from the actions of the applicant; (Ord. No. 1519, 8-8-1985)
- (D) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Article 2 of the Land Development Code to other properties or development; (Ord. No. 1519, 8-8-1985)
- (E) That the granting of the variance will be in harmony with the general purpose and intent of this Article 2 of the Land Development Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and (Ord. No. 1519, 8-8-1985)
- (F) That the variance granted is the minimum variance that will make possible the reasonable use or development of the property. (Ord. No. 1519, 8-8-1985)

The existence of uses or development of other property in the City which do not comply with the provisions of this Article 2 of the Land Development Code shall not be considered grounds for the issuance of a variance. (Ord. No. 1519, 8-8-1985)

In granting any variance hereunder, City Council may prescribe any conditions and safeguards it deems necessary or desirable. Violation of this Article 2 of the Land Development Code and shall be punishable as provided herein. (Ord. No. 1519, 8-8-1985)

An application for a variance shall be submitted to the Building Development Division on a prescribed form. The applicant shall state clearly and in detail the nature of the variance requested, and the grounds

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of the alleged hardship upon which the variance is requested. (Ord. No. 1519, 8-8-1985; Ord. No. 3305, 2-10-2005)

The application for variance will be considered by City Council at a public hearing. Notice of such public hearing shall be given by regular mail to all property owners within three hundred (300) feet of any portion of the property in question. Such notices shall be mailed at least ten (10) days in advance of the public hearings to addresses indicated on the tax rolls or otherwise known. (Ord. No. 1519, 8-8-1985; Ord. No. 3305, 2-10-2005)

After final action by City Council, any person aggrieved thereby may seek judicial review by the filing of a Petition for Writ of Certiorari in the Circuit Court for Pinellas County, Florida. (Ord. No. 1519, 8-8-1985)

#### **Sec. 18-208. VIOLATIONS; PENALTIES; MAINTENANCE; RESTORATION.**

##### (A) ANY PERSON WHO:

1. Commences or conducts an activity described in Section 18-203 without prior approval of a drainage plan; (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
2. Deviates from an approved drainage plan; (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986)
3. Fails to properly maintain or alters required drainage facilities, as a result of which a public nuisance is created; (Ord. No. 1519, 8-8-1985; Ord. No. 1596, 2-13-1986; Ord. No. 3305, 2-10-2005)
4. Alters without approval the grading or drainage of a parcel and as a result, the drainage characteristics of adjacent parcels have been changed; (Ord. No. 3305, 2-10-2005)
5. Otherwise fails to comply with any other requirements of this Article 2 of the Land Development Code shall be guilty of a violation of this Article 2 of the Land Development Code. Such person shall be guilty of a separate offense for each day during which a violation of this Article 2 of the Land Development Code is committed or continues. (Ord. No. 1596, 2-13-1986)

(B) Any activity undertaken in violation of this Article 2 of the Land Development Code shall be halted immediately after written notice is given by the Building Development Division. The violator shall, at the discretion of the City, be required within a reasonable time to restore any altered land to its undisturbed condition or to another condition so that it would not discharge stormwater in violation of the control requirements for stormwater runoff contained in this Article 2 of the Land Development Code. In the event that restoration is not undertaken within the time specified and the alteration results in a public nuisance, the City of Pinellas Park may act to restore the property. The cost of such restoration may be assessed as a lien upon the property where such illegal activity occurred. (Ord. No. 1519, 8-8-1985; Ord. No. 3305, 2-10-2005)

(C) The City may act to maintain such drainage facilities if the lack of maintenance results in a public nuisance, and assess the cost of such maintenance as a lien upon the property on which the facilities are located. (Ord. No. 1519, 8-8-1985)

(D) The City shall follow the procedure set forth in Section 18-209 in restoring property or maintaining drainage facilities and placing a lien on said property. (Ord. No. 1519, 8-8-1985)

(E) In those instances where a pond or other water body is entirely surrounded by private property so that the general public does not have access to use and enjoy the water body, maintenance thereof may be accomplished by the City of Pinellas Park only to the extent necessary to reasonably prevent or alleviate a public nuisance. (Ord. No. 1519, 8-8-1985)

The cost of such maintenance may be assessed as a lien upon the property on which the maintenance is performed. The City shall follow the procedure set forth in Section 18-209 in maintaining such pond or water body and placing a lien on said property. (Ord. No. 1519, 8-8-1985)



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- (F) For the purposes of this Article 2 of the Land Development Code, it shall be presumed that a public nuisance exists when one (1) or more of the following conditions exist: (Ord. No. 1519, 8-8-1985)
  1. Drainage facilities are not maintained properly, as a result of which water has flooded or is reasonably likely to flood land not owned by the owner of the land on which the drainage facilities are located or water has flooded or is reasonably likely to flood a building whether or not located on land owned by the owner of the drainage facilities. (Ord. No. 1519, 8-8-1985)
  2. Activity has been undertaken in violation of this Article 2 of the Land Development Code, as a result of which water has flooded or is reasonably likely to flood land not owned by the owner of the land on which unlawful activity has taken place, or water has flooded or is reasonably likely to flood a building, whether or not located on land owned by the owner of the land on which the unlawful activity has taken place. (Ord. No. 1519, 8-8-1985)
  3. A pond or other water body entirely surrounded by private property has not been properly maintained, as a result of which water has flooded or is reasonably likely to flood land and/or structure(s) other than that owned by the owners of land upon which such pond or water body is located. (Ord. No. 1519, 8-8-1985)
  4. The pond, drainage facility, or other body of water no longer functions, or conforms to its original design due to erosion, overgrowth of vegetation or any other alterations to its original design. (Ord. No. 3305, 2-10-2005)

**Sec. 18-209. PROCEDURE FOR MAINTENANCE OR RESTORATION AND PLACING LIENS.**

- (A) NOTICE REQUIRED. If the City Manager or designee finds and determines that land has been altered in violation of this Article 2 of the Land Development Code or that drainage facilities or water bodies are not being maintained as required by this Article 2 of the Land Development Code and that such violation constitutes a public nuisance, the City shall so notify the record owner thereof in writing and demand that such owner cause the condition to be remedied within such reasonable time as may be determined by the City. The notice shall be given by certified mail, addressed to the owner or owners of the property described, as their names and addresses are shown upon the record of the Pinellas County Tax Assessor, and shall be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid. In the event that such notice is returned by postal authorities, the City Manager or designee shall cause a copy of the notice to be served by his agent upon the occupant of the property or upon any agent or owner thereof. In the event that personal service upon the occupant of the property or upon any agent of the owner thereof cannot be performed after reasonable search by the agent of the City Manager, the notice shall be accomplished by physical posting on said premises. (Ord. No. 1519, 8-8-1985; Ord. No. 3305, 2-10-2005)
- (B) FORM OF NOTICE. The notice required by this Section shall be on substantially the following form:(Ord. No. 1519, 8-8-1985)

NOTICE OF PUBLIC NUISANCE

Name \_\_\_\_\_ of  
Owner \_\_\_\_\_

Address \_\_\_\_\_ of  
owner \_\_\_\_\_

Our records indicate that you are the owner(s) of the following property in the City of Pinellas Park, Florida:

(Describe Property)

An inspection of this property discloses, and I have found and determined that the following violation of Section \_\_\_\_\_ of the Code of Ordinances of the City of Pinellas Park, Florida, exists:

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(Describe here the condition which places the property in violation)

You are hereby notified that unless the condition above described is brought into compliance with the Code of Ordinances of the City of Pinellas Park, Florida, within \_\_\_\_\_ days from the date hereof, the City of Pinellas Park will proceed to remedy this condition and the cost of the work to remedy the condition, advertising costs, administrative costs and other expenses will be imposed as a lien on the property described.

CITY OF PINELLAS PARK

BY: \_\_\_\_\_

(Ord. No. 1519, 8-8-1985)

(C) HEARINGS. If notification has been accomplished according to the provisions of this Section, then within the time specified within the Notice of Public Nuisance, the owner of the said property may make a written request to the City Clerk for a hearing before City Council, to show that the violation alleged in the notice does not exist or has not occurred or that the violation does not constitute a public nuisance. Within fifteen (15) days of receipt of such written notice, the City Clerk shall give written notice of the date, time, and place of the hearing. Such written notice shall be given at least fifteen (15) days prior to the date of the hearing. For purposes of this Section, the giving of such notice shall be deemed complete upon the mailing thereof. (Ord. No. 1519, 8-8-1985)

At the hearing the City and the property owners may introduce such evidence as each deems appropriate. At the conclusion of such hearing, the City Council shall either affirm or reverse, in whole or in part, the decision of the City Manager or his designee. Written notification of such decision shall thereafter be provided by the City Clerk to the person requesting the hearing. (Ord. No. 1519, 8-8-1985)

(D) CONDITION MAY BE REMEDIED BY CITY. If notification has been accomplished according to the provisions of this Section and if within the time specified in the Notice of Public Nuisance, no hearing has been requested and the condition described in the notice has not been remedied, the City Manager or designee may cause the condition to be remedied by the City of Pinellas Park, or independent contractor selected by the City, at the expense of the property owner. If a hearing has been held and has concluded adversely to the property owner and the condition is not remedied within the time required by City Council's order, the City Manager or designee may cause the condition to be remedied by the City of Pinellas Park, or an independent contractor selected by the City, at the expense of the property owner. (Ord. No. 1519, 8-8-1985; Ord. No. 3305, 2-10-2005)

(E) PREPARATION OF PRELIMINARY ASSESSMENT ROLL. After causing the condition to be remedied, the City Manager or designee will determine the costs incurred by the City in connection therewith, including all costs described in Subsection (B) above. The City Manager or designee shall then cause a preliminary assessment roll to be prepared containing a complete list of the properties upon which conditions were remedied under the provisions of this Section, setting opposite each lot, parcel or tract of land its proper proportionate share of the cost of doing said work, including all costs described Subsection (B) above. This preliminary assessment roll shall be known as "Preliminary Assessment for Drainage Maintenance or Restoration" and shall upon completion be submitted to the City Council. Immediately after submission of said preliminary assessment roll to the City Council, the City Council shall fix a date for a public hearing upon the assessments as contained therein. (Ord. No. 1519, 8-8-1985; Ord. No. 3305, 2-10-2005)

(F) PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL. Immediately upon the determination by the City Council of the date for public hearing upon the proposed assessment, the City Clerk shall cause to be published in a daily newspaper of general circulation, a notice in substantially the following form: (Ord. No. 1519, 8-8-1985)

NOTICE TO PROPERTY OWNER

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You are hereby notified that the City of Pinellas Park has just completed maintaining drainage facilities or water bodies or restoring land in the City of Pinellas Park which facilities were not maintained as required or which land had been altered contrary to the provisions of Chapter 18, Article 2 of the Land Development Code of the City of Pinellas Park and which failure of maintenance or alteration has resulted in a public nuisance, and has determined the amount to be assessed against each of the said lots, tracts or parcels. A list of the properties to be assessed and amount to be assessed against each of said properties is on file and open for inspection in the office of the City Clerk of the City of Pinellas Park. You are further notified that the City Council of the City of Pinellas Park will hold a public hearing on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_ in the Council Chambers at the City Hall in the City of Pinellas Park, Florida, for the purpose of hearing any complaints or protests that any affected party may wish to offer as to why said assessments should not be made final.

#### CITY CLERK

The foregoing notice shall be published one (1) time and said hearing provided for by said notice shall be not less than ten (10) days from the date of publication of said notice. A copy of the foregoing notice shall also be mailed to the affected property owners as their names and addresses are shown upon the records of the Pinellas County Tax Assessor not less than ten (10) days prior to the hearing. (Ord. No. 1519, 8-8-1985)

- (G) APPROVAL OF PRELIMINARY ASSESSMENT ROLL. The City Council shall meet at the time and place specified in said notice and hear any and all complaints that any person affected by said proposed assessment wishes to offer and shall correct any and all mistakes or errors appearing upon said preliminary assessment roll. The City Council may then approve the preliminary assessment roll, as submitted or as corrected. Any such assessment roll so approved shall then be final. (Ord. No. 1519, 8-8-1985)
- (H) AMOUNTS ASSESSED CONSTITUTE LIEN. When the said preliminary assessment roll is approved by City Council and made final, the amounts assessed against the respective properties shall, from the date of said approval, be and constitute a lien against said properties until paid. Upon approval of the assessment roll by the City Council, the City Clerk shall immediately cause the same to be recorded in the Public Records of Pinellas County, Florida. (Ord. No. 1519, 8-8-1985)
- (I) INTEREST ON ASSESSMENT LIENS. The principal amount of all assessment liens levied and assessed under this Section shall bear interest at the rate of eight (8) percent per annum from a date thirty (30) days after the date of approval of the assessment. The principal amount of such assessment, together with all accrued interest thereon, shall constitute a lien against the property so assessed. (Ord. No. 1519, 8-8-1985)
- (J) RECORDS. The City shall keep complete records relating to the amount payable for liens and interest above described and shall at least annually send a statement of the principal and interest due upon such liens to the record owner of the property upon which the lien exists. (Ord. No. 1519, 8-8-1985)
- (K) ENFORCEMENT OF LIENS. At any time after the expiration of thirty (30) days from the date of approval of the assessment roll, the City may proceed to foreclose the said lien or liens in the manner prescribed in F.S. ch. 173. (Ord. No. 1519, 8-8-1985)
- (L) ARTICLE DECLARED SUPPLEMENTAL. This Article 2 of the Land Development Code shall be deemed to provide supplemental, additional, and alternative remedies, and shall be considered cumulative and in addition to penalties and to other remedies provided elsewhere by law or Ordinance. (Ord. No. 1519, 8-8-1985)

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**Sec. 18-210. SEVERABILITY.**

Should any Section or provision of this Article 2 of the Land Development Code be declared by the courts to be invalid or unconstitutional, such declaration shall not affect the validity of the Article 2 of the Land Development Code as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional. (Ord. No. 1519, 8-8-1985)