



DSC NOTICE #157

*City of Virginia Beach
Planning Department
Development Services Center
April 2, 2009*

Topic: Private Sanitary Sewer Maintenance Agreement

Background:

The City Code Section 28-2 requires all parcels to connect to the public sanitary sewer system when available. Each parcel must have its own single connection; however, in rare instances, a parcel may not have sanitary sewer available or it may not be feasible for the City to extend public sanitary sewer to the parcel. In these cases, a request for a variance to the Public Utility Design Guidelines to allow a shared private connection to the public sanitary sewer system may be submitted to the Development Services Center (DSC). The request is included in the development plan submittal or during the development plan review process. The DSC Utility Review Engineer coordinates the review of the variance with members of the Department of Public Utilities for final approval. **The variance must be approved prior to the approval of the development plan. As a condition of the variance approval and the release of the approved development plan, a Private Sanitary Sewer Maintenance Agreement (“Agreement”) must be recorded in the Office of the Clerk of Circuit Court.** The recordation of the Agreement is handled by the DSC staff.

Discussion:

Private Sanitary Sewer Maintenance Agreement Forms:

A generic copy of the Agreement is available on the Planning website under “Legal Documents.” Please “click” on [Agreement](#) to link to the website for the Word formatted document. The owner’s and their attorney’s preparation time and the staff’s review and processing time should be reduced by the use of this standard Agreement. If the standard Agreement is altered or not used, the review time will increase when additional members of staff become involved in the process.

Key Items in the Agreement:

1. The Agreement runs with the land in perpetuity.
2. The City is held harmless for any actions or claims resulting from any damage associated with the private facilities.

3. The owner must construct, maintain and repair the shared private sanitary sewer system.
4. If, in the opinion and sole discretion of the City, the private system is not being maintained properly, becomes inoperative, contributes excessive infiltration or inflow (as defined by the City), produces sanitary sewer overflows, performs in any way that would be adverse to the public health or interest or constitutes a health hazard or nuisance, the City may order the owner to make immediate repairs. If the owner does not take the corrective action necessary within 48 hours, the City may, at its sole discretion, take whatever steps it deems necessary to eliminate the problem by, including but not limited to, terminating water service to the property, making the repairs itself, contracting with others to make the repairs or seek legal remedies. The owner shall reimburse the City for any and all costs that the City incurs to correct the situation.

Implementation Date: **Effective Immediately**

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