

Appendix A - SUBDIVISION REGULATIONS^[1]

ARTICLE 1. - PURPOSE, POLICY, TITLE AND INTERPRETATION

Sec. 1.1. - Purpose.

The purpose of these regulations is to establish procedures and standards for the development of subdivisions or proposed additions to existing subdivisions and for building development within the planning jurisdiction of the Town of Elberta, Alabama, in an effort to regulate the minimum size of lots, the planning and construction of all public streets, public roads and drainage, structures, and to require the proper placement of public utilities.

Sec. 1.2. - Policy.

§ 1.2.1 It is hereby declared to be the policy of [the] Town of Elberta to consider the subdivisions of land and the subsequent development of the subdivided land as subject to the control of the Town of Elberta Planning Commission pursuant to the authority granted to the Town by the Code of Alabama.

§ 1.2.2 Land to be subdivided or developed shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided or developed until proper provision has been made for drainage, water, sewerage disposal and streets.

§ 1.2.3 Any owner of land which lies within the area of jurisdiction of the Town of Elberta Planning Commission who wishes to subdivide or resubdivide such land into two (2) or more lots, parcels, plats, or other divisions of land for the purpose, whether immediate or future, of sale or of building development, including, but not limited to, the installation of facilities for the provision of water and sewage disposal serving units or lots, and for the placement of dwelling units, shall submit to the Town Planning Commission and County Health Department for approval, a plat of the subdivision, or development, which shall conform to the minimum requirements set forth in these regulations.

§ 1.2.4 No subdivider shall proceed with any improvements or with the installation of utilities in a subdivision, or development, until such subdivision plat shall have been reviewed and granted Preliminary Plat approval by the Town Planning Commission and County Health Department.

§ 1.2.5 No subdivider shall proceed with the sale of lots or the erection of buildings, excluding required public improvements and utility structures, within a subdivision or development, until such subdivision or development plat shall have been granted Final Plat approval entered in writing on the plat and signed by the Chairman of the Town of Elberta Planning Commission and recorded in the Office of the Probate Judge of Baldwin County.

(Ord. of 8-20-2009)

Sec. 1.3. - Title.

These regulations shall hereafter be known, cited and referred to as the Subdivision Regulations of [the] Town of Elberta, Alabama.

Sec. 1.4. - Interpretation.

In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

ARTICLE 2. - AUTHORITY AND JURISDICTION

Sec. 2.1. - Authority.

The rules and regulations herein set forth are hereby adopted in accordance with Title 11, Subtitle 2, Chapter 52, Articles 1 through 3 of the Code of Alabama, 1975 and 1986 Cumulative Supplement (Code of Ala. 1975, §§ 11-52-1—11-52-54).

Sec. 2.2. - Jurisdiction.

These Regulations shall be in force and effect for the subdivision or development of all land which is situated inside the corporate limits of the Town of Elberta as presently or hereinafter established, as well as of all land lying within the planning jurisdiction of the Town of Elberta as presently or hereinafter established except as noted below.

The Town of Elberta Planning Commission hereby declares that the current edition of the Baldwin County Subdivision Regulations and any future amendments thereto shall serve as the Subdivision Guideline for all zoned properties lying within the extraterritorial jurisdiction of the Town of Elberta subject to the following:

Sketch Plat Reviews.

Plat requirements (must meet or exceed [the] Town of Elberta's regulations).

Town Engineer plan review and approval.

Planning Commission plan review and approval.

Administrative procedures and fees.

Zoned properties lying within the extraterritorial jurisdiction shall receive Baldwin County Zoning approval for dimensional and geometric plat requirements prior to submitting an application to the Town of Elberta Planning Commission.

(Ord. of 8-20-2009)

ARTICLE 3. - DEFINITIONS

Sec. 3.1. - Usage.

For the purpose of these regulations, certain numbers, abbreviations, terms and words used herein shall be used, interpreted, and defined as set forth in this section. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular number; the word "herein" means "in these regulations"; the word "regulations" means "these regulations."

A "person" includes a corporation, a partnership and an incorporated association of persons such as a club; "shall" is always mandatory; a "building" includes a "structure" and includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

Sec. 3.2. - Words and terms defined.

A-1 Development Schedule. Development of a PUD site with zero-lot-line/patio single-family detached residential dwellings.

A-2 Development Schedule. Development of a PUD site with two-family/duplex attached residential dwellings.

A-3 Development Schedule. Development of a PUD site with multi-family attached residential dwellings.

Accessory Building/structure. A detached, subordinate building or structure, located on the same building site with the main structure, the use of which is incidental to that of the main structure.

Alley. A public right-of-way primarily designed to serve as a secondary access to the side or rear of properties whose principal frontage is on some other street.

Applicant. The owner or his designated representative of land proposed to be subdivided. Consent shall be required from the legal owner of the premises.

Arterial. See Street, Arterial.

Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or other boundary lines.

Buffer. Land which is maintained in either a natural or landscaped state and is used to screen and/or mitigate the impacts of development on surrounding areas, wetlands, properties, or rights-of-way.

Buildable/Useable Area. The area of a lot or parcel which is sufficient to accommodate the construction of water supply systems, sewage treatment systems, buildings, driveways and other customary improvements to a lot, while still providing for adequate setbacks. Buildable area shall not include land below the ordinary high water level of a waterbody, jurisdictional wetlands, bluffs, non-buildable easements, buildable portions of land that is non-contiguous to each other or when the Town of Elberta Planning Commission or Town Engineer determines that an area is unsuitable for proposed or likely improvements.

Building. Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or moveable property of any kind, and includes any structure.

Building Setback Line. A line generally parallel to and measured from the front property line in front of which no structure may be erected.

Building Site. The land occupied or to be occupied by a structure and its accessory structures including open spaces, required yards and parking.

Collector Street. See Street, Collector.

Corner Lot. A lot which occupies the interior angle at the intersection of two (2) street lines. The street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal, in which case the owner shall be required to specify which is the front.

County. Baldwin County, Alabama.

Cul-de-sac. A minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Dedication. The transfer of property from private to public ownership.

Depth of Lot. The mean horizontal distance between the front and rear lot lines.

Design Engineer. A registered professional engineer in the State of Alabama, qualified by education and experience to perform services of design in the area of their expertise. For these regulations, the design engineer is the consultant that is responsible for the design of the development and is retained by and/or is an agent for the owner/developer.

Developer. The owner or his designated representative of land proposed to be subdivided. Consent shall be required from the legal owner of the premises.

Development. The division of a parcel of land into two or more parcels or the construction [or] relocation of any structure; any mining, excavation, landfill, or land disturbance; and any development of land.

Double Frontage Lot. A lot having a frontage on two (2) non-intersecting streets as distinguished from a corner lot.

Dwelling. Any covered structure intended for the shelter, housing or enclosure of persons.

Easement. A grant by a property owner of the use of land for a specified purpose or purposes by the general public or a corporation, or person(s); or as created by operation of law.

Expressway. See Street, Expressway.

Family Division. A division of land in accordance with the opinion of the Attorney General of the State of Alabama dated May 31, 1979 among the following designated legally related family members: spouse, children, siblings, parents, grandparents, grandchildren, or step-related individuals of the same status.

Final Plat. A plat of a tract of land which meets the requirements of these regulations and is in proper form for recording in the Office of the Probate Judge of Baldwin County, Alabama.

Floodproofing. Any combination of structural or nonstructural additions, changes, or adjustments which reduce or eliminate flood damage to real estate or improved real property, water supply and sanitary sewer facilities, electrical systems, and structures and their contents.

Floodway. The stream channel and the portion of the adjacent floodplain which must be reserved solely for the passage of floodwaters in order to prevent an increase in upstream flood heights of more than one (1) foot above the predevelopment conditions.

For the purpose of these regulations, floodways shall be defined as follows:

- (a) The floodways as identified or delineated in the Flood Insurance Study for [the] Town of Elberta, Alabama.
- (b) Along Small Streams and Watercourses. All lands lying within twenty-five (25) feet of the top of the bank of the channel (measured horizontally), unless the developer demonstrates to the satisfaction of the Town Planning Commission that a lesser distance (but not less than fifteen (15) feet) is adequate based on the watershed characteristics and probable storm runoff for the 100-year flood.

Hardship. An unusual situation on the part of an individual property owner which will not permit the full utilization of property which is given to others within the county. A hardship exists only when it is not self-created.

Health Department. The Baldwin County Health Department.

Hundred (100) Year Flood. A flood which has, on the average, a one (1) percent chance of being equaled or exceeded in any given year.

Jurisdictional determination. An official, written statement or map signed by the U.S. Army Corps of Engineers.

Jurisdictional Wetland. A wetland area that is regulated by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. It can meet the definitional requirements for wetlands (i.e., hydrophytic vegetation, hydric soils and hydrology) as determined by the U.S. [Army] Corps of Engineers, 1987 Federal Wetland Delineation Manual.

Land Subject to Flood. For the purpose of these regulations, land subject to flood shall be defined as follows:

- (a) The Lands identified as having special flood hazards by the Office of Federal Insurance and Hazard Mitigation. The lands identified as subject to inundation by the 100-year flood and all lands lying below the 100-year flood elevations as demonstrated by the maps and charts contained in the Flood Insurance Study for [the] Town of Elberta, Alabama, as prepared by the Federal Emergency Management Agency, Offices of Federal insurance and Hazard Mitigation, and all subsequent revisions thereto, which are made a part of these regulations.
- (b) Along Small Streams and Watercourses. All lands lying within one-hundred (100) feet of the top of the bank of the channel (measured horizontally) unless the developer demonstrates to the satisfaction of the Town Planning Commission that the property in question is free from the danger of inundation by the 100-year flood or that adequate remedial measures have been taken to allow the watercourse to safely accommodate the 100-year flood.

The developer shall submit such data or studies based on the watershed characteristics, probable runoff, and other topographic and hydraulic data prepared by a registered professional engineer as the Town Planning Commission may reasonably require to adequately make its determination of the flood susceptibility of the property.

Lot. A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for lease for the site of a dwelling unit, or for building development.

Lot flag. A lot with access provided to the bulk of the lot by means of a narrow corridor.

Lot of Record. A lot which is part of a subdivision, the plat of which has been recorded in the Office of the Probate Judge of Baldwin County.

Major Subdivision. A subdivision not classified as a minor subdivision, including but not limited to subdivisions of five (5) or more lots, or any size subdivision requiring any new streets, drainage or other public improvements.

Minor Street. See Street, Minor.

Minor Subdivision. A subdivision containing not more than four (4) lots fronting on an existing street, not involving any new street or road or the extension of public facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel of adjoining property.

Mobile Home Park. The subdivision of a parcel or tract of land for the purpose of selling lots for the placement of temporary or permanent dwelling units thereon, including, but not limited to, the construction of improvements for water and/or sewage disposal and streets.

Monument. A permanent object serving to indicate a limit or to make a boundary.

Non-jurisdictional Wetland. A wetland area that is not regulated by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act although it meets the definitional requirements for wetlands (i.e., hydrophytic vegetation, hydric soils and hydrology) as determined by the U.S. [Army] Corps of Engineers, 1987 Federal Wetland Delineation Manual.

Nonresidential Subdivision. A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.

Owner. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

Owner's Engineer. The engineer or land surveyor registered and in good standing with the State Board of Registration of Alabama who is the agent of the owner of land which is proposed to be subdivided or which is in the process of being subdivided.

Permitted Structure. A structure meeting all the requirements established by the PUD regulations (Article 10 of these regulations) for the development in which the structure is located.

Planned Unit Development (PUD). An area with a specified minimum contiguous acreage to be developed as a single entity according to a plan. (See [Article 10.](#)) PUD Properties located in the Corporate Limits of the Town of Elberta shall adhere to the current Planning and Zoning Ordinance regarding PUD Development Standards as approved by the Town Council. Other sections including but not limited to engineering, road standards, storm water design, erosion control, etc., of the subdivision regulations shall apply to PUD properties located within the corporate limits pursuant to the subdivision of the PUD property.

Planning Commission. The Town of Elberta Planning Commission.

Planning Commission Staff. Staff of the Planning Commission includes, but is not limited to, the Town Engineer, Town Building Official, Town Zoning Official, Town Planning Director, the Planning Commission Attorney and the Planning Commission Secretary/Treasurer.

Preliminary Plat. A tentative plan of the complete proposed subdivision submitted to the County Planning Commission for its consideration.

Probate Judge. The Judge of Probate of Baldwin County, Alabama.

Registered Engineer. An engineer properly licensed and registered in the State of Alabama.

Registered Land Surveyor. A land surveyor properly licensed and registered in the State of Alabama.

Resubdivision. A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Setback. The distance between a building and the street line nearest thereto.

Single Tier Lot. A lot which backs upon a street, a railroad, a physical barrier, or a residential or nonresidential use, and to which access from the rear of the lot is usually prohibited.

Sketch Plat. A review sketch prior to the preparation of the Preliminary Plat (or Final Plat in the case of a minor subdivision) to enable the applicant to save time and expense in reaching general agreement with the Town Planning Commission as to the form of the plat and the objectives of these regulations.

Special Flood Hazard Areas. Land in the floodplain as per the latest adopted FEMA Flood Insurance Rate Maps.

Street. The full right-of-way of a thoroughfare which affords the principal means of access to abutting property.

- (a) *Expressway or Freeway.* A facility which has the main function to accommodate a high volume of traffic for a considerable distance through the prohibiting of ingress and egress except at controlled intervals. A freeway involves complete control of access while an expressway permits access, at grade intersections at infrequent intervals.
- (b) *Arterial.* A street that connects areas which produce large numbers of trip generations. An arterial has a dual function - to move traffic and to provide access to land uses, particularly the high trip-generating commercial activities. The traffic and access functions of arterials conflict with each other and this is one of the major problems of planning.
- (c) *Collector.* A collector street has the primary function of collecting traffic from an area and moving it to the arterial street system while also providing substantial service to abutting land use. Typically, a collector street should not have extensive continuity, or it may be used as an undesirable arterial. The development of a collector street in new growth areas is usually dependent upon the form taken by land subdivision, whether the subdivision is residential in nature, or a planned commercial, office, or industrial development.
- (d) *Minor Street.* A minor street is one whose primary function is to service abutting land use. Through traffic should be stringently discouraged on a minor street.
- (e) *Marginal Access Street.* A road separating abutting land areas from arterial streets. A service road in commercial areas intended to remove terminal traffic from arterials and allow them to fulfill their high volume, high speed function. An access street in residential areas intended to remove local traffic from arterials and to buffer abutting residential lots from the detrimental effects of highway traffic by use of park strips, screen plantings or other measures, as well as to limit the number of direct driveway accesses to arterials for safety purposes.

Subdivider. Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly, sells, or develops, or offers to sell, develop, or advertises for sale or development, any interest, lot, parcel, site, unit, or plat in a subdivision, or who (3) is directly or indirectly controlled by, or under direct, or indirect, common control with any of the foregoing.

Subdivision. The division of a lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other division of land for the purpose, whether immediate or future, of sale or of building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory being subdivided. It shall include all divisions of land involving the dedication of a new street or a change in existing streets.

Subdivision Jurisdiction. The territorial jurisdiction of the Town of Elberta Planning Commission over the subdivision of land including all unincorporated areas of the Town except areas within the jurisdiction of any organized and functional municipal planning commission.

Subdivision, Major. See Major Subdivision.

Subdivision, Minor. See Minor Subdivision.

Surety. Any surety bond, certificate of deposit, irrevocable letter of credit, cashier's check, or other acceptable surety as approved by the Town of Elberta Planning and Zoning Commission.

Town. The Town of Elberta, Alabama.

Town Clerk. The duly designated Clerk of the Town of Elberta, Alabama.

Town Council. The Mayor and Town Council of the Town of Elberta, Alabama.

Town Engineer. The duly designated Engineer of the Town of Elberta, Alabama.

Town Specifications. All construction specifications which have been adopted by the Town Council or as required by the Planning Commission and all utility departments.

Watercourse. Any depression serving to give direction to a flow of water, having a bed and well-defined banks and which shall, upon the rule or order of the Planning Commission, also include other generally or specifically designated areas where flooding may occur. The flow of water need not be on a continuous basis, but may be intermittent, resulting from the surface runoff of precipitation.

Wetlands. Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions or otherwise delineated by the Army Corps of Engineers. Wetlands generally include swamps, marshes, bogs and similar areas.

Width Lot. The mean horizontal distance between the two side lot lines.

Yard, Front. A yard extending the full width of the building site across its front, with required depth measured at right angles to the front street line of the building site.

Yard, Rear. A yard extending the full width of the building site across its rear, with required depth measured at right angles to the rear line of the building site.

Yard, Side. A yard extending from the rear line of the front yard to the front line of the rear yard, with required width measured at right angles to the adjacent side lines of the building site.

(Ord. of 8-20-2009)

ARTICLE 4. - APPROVAL OF SUBDIVISION PLATS

Sec. 4.1. - Approval of subdivision plats required.

From and after the date of filing a certified copy of these regulations with the Probate Judge, no subdivision plat of land within the planning jurisdiction, as defined in Article 3 of these regulations, shall be filed or recorded nor shall any lots be sold until the plat shall have been submitted to and approved by the Town Planning Commission and recorded by the Probate Judge. The Probate Judge, upon receipt of a copy of these regulations, shall not thereafter file or record a plat of a subdivision of land located within the Town's subdivision or development jurisdiction, as defined herein, without the approval of such plat in accordance with these regulations.

No services or utilities shall be extended to a subdivision, unless and until the requirements set forth in these regulations have been complied with and the same has been approved by the Town Planning Commission.

§ 4.1.1 Any and all subdividers or developers of land in the Town of Elberta jurisdiction, be they individuals, firms, trusts, organizations, agencies or other legal entities, must submit a plat of any proposed subdivision or development of land to the Town Planning Commission, unless they are exempt under Section 4.2.2 of these Regulations. Owners of exempt subdivisions shall not be required to submit a plat to the Town Planning Commission nor pay any of the required fees.

Any subdivider or developer who appears to be circumventing the intent and substance of these Regulations may be required to submit a plat for review and approval by the Town Planning Commission and shall be subject to the penalties under Section 14.3 of these Regulations.

§ 4.1.2 Any proposed subdivision or development located within a flood prone area of the Planning jurisdiction of the Town must also be reviewed and approved under the requirements of the National Flood Insurance Program.

Sec. 4.2. - General procedure.

§ 4.2.1 *Classification of Subdivision.*

Whenever any subdivision of land is proposed, before any contract is made for the sale of any part thereof, the subdividing owner or his authorized agent shall apply for and secure approval of such proposed subdivision in accordance with the procedures as herein established. Applications for approval of a major subdivision shall consist of a Preliminary Plat and Final Plan.

§ 4.2.2 *Exception to Required Approval.*

Notwithstanding the preceding paragraph, the following subdivisions are exempt from the provisions of these regulations and from any requirement for approval to subdivide. Exemption from the requirement for approval to subdivide does not constitute exemption from the requirements of other applicable regulations including but not limited to minimum zoning and health requirements. The Planning Commission and/or Planning Commission staff may require documentation to substantiate any claim of exemption. The Planning and Zoning Administrator is hereby authorized to issue letters of exemption based on the following requests:

- (a) Subdivision of land by testamentary or intestate provisions.
- (b) Subdivision of land by court order including, but not limited to, judgments of foreclosure.
- (c) Sale, deed or transfer of land by the owner to an immediate family member (as defined under these regulations) if the grantor has owned the lot or parcel for a continuous period of 2 years immediately preceding the division by conveyance of title and provided the subsequent subdivided lot(s) or parcel(s) is not further divided or transferred within 2 years from the date of division (conveyance of title). Each parcel shall have a deeded ingress/egress and utility access of not less than 30 feet in width to a publicly maintained right-of-way.
- (d) The public acquisition by gift or purchase of strips or parcels of land for the widening or opening of streets or for other public uses.
- (e) The division of land into parcels of three (3) acres or more where each parcel subdivided has a minimum of two hundred ten (210) feet frontage on an existing publicly maintained street which has a minimum sixty (60) foot right-of-way contiguous to the property being divided.

- (f) The division of land wherein the size of each and every resulting parcel of land equals or exceeds twenty (20) acres, rights-of-way and involves no street or other public improvements. Each parcel shall have access from an ingress/egress easement of a minimum of 50 feet in width.
- (g) The construction or development of roads or buildings on private property to be used for agricultural purposes.
- (h) A "one-time" split of a single parcel into two (2) resultant parcels, if, and only if, the parcel existed and has not been divided since November 20, 1991. Sufficient documentation of property status as of November 20, 1991 must be submitted along with request for exemption. Each resulting parcel shall meet the minimum lot size stated in applicable zoning regulations if property is zoned or Section 5.6(b) of these regulations along with an adequate ingress/egress and utility easement of no less than 30 feet in width from a publicly maintained right-of-way.
- (i) Common lot line movements are exempt from these regulations provided that zoning requirements are met for each resulting parcel, no parcels involved are to be sold and adequate ingress/egress and utility easements of no less than 30 feet in width are provided to parcels from a publicly maintained right-of-way. If the lot line movement occurs within a platted subdivision, a new plat of the parcels involved in the movement must be recorded in the office of the Baldwin County Judge of Probate. If there is an active Homeowners' Association for a subdivision, approval from same must be submitted prior to exemption. No common lot line movements are allowed within a Planned Unit Development (PUD).

(Ord. of 8-20-2009)

Sec. 4.3. - Submission of Sketch Plat.

The procedure for obtaining Sketch Plat concurrence is as follows:

§ 4-3-1 *Discussion of Requirements.*

Before preparing the Sketch Plat for a subdivision or development, the applicant should discuss with the County Engineer or Town Planning and Zoning Official the procedure for approval of a subdivision plat and the requirements as to general layout of streets and for reservations of land, street improvements, drainage, sewerage, water and similar matters as well as the availability of existing services. The Town Planning and Zoning Official shall also advise the applicant, where appropriate, to discuss the proposed subdivision or development, with those County officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction.

§ 4-3-2 *Application Procedure.*

Whenever any subdivision of a tract of land is proposed to be made, the applicant shall submit to the Planning and Zoning Department at least ten (10) working days prior to a regularly scheduled meeting, ten (10) large copies and 1 11x17 copy, all neatly folded, of a Sketch plat of the proposed subdivision together with a sketch vicinity map and any other data which will convey his intentions as to the proposed layout and type of development. The applicant shall appear at the regularly scheduled meeting of the Town Planning Commission to discuss the proposed subdivision or development and become familiar with the application of the regulations affecting the land to be subdivided. This procedure is mandatory but does not require a formal application or fee.

§ 4-3-3 *Sketch Plat Requirements.*

A Sketch Plat shall be drawn at an approximate scale of one inch to 100 feet and shall show the tentative street layout, approximate right-of-way width, lot arrangements, the location of the nearest water and sewer lines (if any), watercourses, existing structures, total acres, approximate number of lots, adjoining streets, north point, tract boundary, and proposed use of land.

§ 4-3-4 *Classification.*

Tentative classification of the Sketch Plat shall be made at the time of review at the regularly scheduled meeting of the Town Planning Commission as to whether the subdivision is a major or minor subdivision as defined in Article 3 of these regulations. Subsequent to the approval by the Town Planning Commission, the applicant may proceed directly to the filing of an application for approval of a final subdivision plat, as provided, in these regulations, if classified as a minor subdivision; and if classified as a major subdivision, the applicant must first file an application for approval of a Preliminary Plat, as provided in these regulations before filing for Final Plat approval.

§ 4-3-5 *Concurrence of Sketch Plat.*

After reviewing and discussing the Sketch Plat, the Town Planning Commission will advise the applicant of the specific changes or additions, if any, to be made in the layout and the character and extent of improvements and reservations to be required as prerequisite to the approval of the subdivision plat. The Town Planning Commission may require additional changes as a result of further study of the subdivision in final form. Said approval shall constitute authorization to prepare and submit a Preliminary Plat in the case of a major subdivision or a Final Plat in the case of a minor subdivision.

(Ord. of 8-20-2009)

Sec. 4.4. - Submission of Preliminary Plat.

The procedure for obtaining Preliminary Plat approval is as follows:

§ 4.4.1 *Application.*

The applicant shall file an application for approval of a Preliminary Plat. The application shall:

- (a) Be made on forms available at the Office of the Town Commission;
- (b) Be accompanied by the following fees made payable to the Town of Elberta Planning Commission:
(Owners of exempt subdivisions shall not be required to pay these fees.)
 1. Filing Fee - One Hundred Fifty Dollars (\$150.00).
 2. Public Hearing Fee - One Hundred Fifty Dollars (\$150.00).
 3. Actual costs of publications or notifications regarding the Subdivision (applicant to be billed by the Planning and Zoning Department).
 4. Actual costs for professional review of plans or professional inspections of the Subdivision (applicant to be billed by the Planning and Zoning Department).
- (c) Be accompanied by ten (10) sets and 1 11x17 copy, all neatly folded, of black or blueline prints of the proposed subdivision prepared in accordance with the requirements of the subdivision regulations;
- (d) Be submitted to the Planning and Zoning Department at least thirty (30) days prior to a regularly scheduled meeting of the Town Planning Commission.

§ 4.4.2 *Public Hearing.*

The Town Planning Commission shall hold a public hearing on the Preliminary Plat. Notice of such public hearing shall be sent to all adjoining landowners by certified mail. Such notices shall be sent at least five (5) days prior to the date of the public hearing. Any Preliminary Plat submitted to the Town Planning Commission shall contain an application form with the names and addresses of all persons to whom notices of a public hearing shall be sent. Any change or modification to a Preliminary Plat shall be resubmitted to the Town Planning Commission for approval and may be subject to a second public hearing, if deemed necessary by the Town Planning Commission.

§ 4.4.3 *Preliminary Plat.*

After the Town Planning Commission, County Health Department and Town Engineer have reviewed the Preliminary Plat and construction plans, the applicant shall be advised of any required changes and/or additions. One (1) copy of the proposed Preliminary Plat shall be returned to the applicant with the date of approval, conditional approval, or disapproval and the

reasons therefor accompanying the plat and one copy shall be retained by the Town Planning Commission. The approval of the Preliminary Plat shall not be deemed final acceptance, but rather an expression of approval of the layout as submitted on the Preliminary Plat.

§ 4.4.4 *Effective Period of Preliminary Approval.*

The approval of a Preliminary Plat shall be effective for a period of two (2) years at the end of which time final approval of the subdivision must have been obtained from the Town Planning Commission, although the plat need not yet be signed and filed with the Probate Judge. Any plat not receiving final approval within the period of time set forth herein shall be null and void, and the applicant shall be required to resubmit a new plat for preliminary approval subject to all subdivision regulations and filing fees. However, upon written request from the applicant stating the reasons for such request, the Planning Commission, upon advice from the Town Engineer, may extend the effective period of the approval up to twelve (12) months.

§ 4.4.5 *Resubmission of Preliminary Plat.*

The Town Planning Commission shall not consider, for a period of twelve (12) months, a Preliminary Plat which has been submitted for approval after Town Planning Commission disapproval, unless the applicant has complied with the Town Planning Commission's required changes and/or additions. Any resubmission shall be subject to a public hearing and full payment of all required fees.

§ 4.4.6 *Preliminary Plat Requirements.*

The Preliminary Plat shall be prepared by a State of Alabama registered engineer or land surveyor and shall be clearly and legibly drawn at a convenient scale of not less than one (1) inch equals one hundred (100) feet, and the sheets shall be numbered in sequence if more than one (1) sheet is used. The sheet shall be of such size as is acceptable for filing in the Office of the Probate Judge, but shall not exceed twenty-four by thirty-six (24 x 36) inches. The Preliminary Plat shall show the following:

- (a) Name of owner(s) of record;
- (b) Proposed name of subdivision, date, north point, scale, and location;
- (c) Name of registered engineer or land surveyor;
- (d) Vicinity map showing location of the subdivision;
- (e) Exact boundaries of the tract of land being subdivided shown with bearings and distances;
- (f) Names and addresses of the owners of land immediately adjoining the tract of land being subdivided;
- (g) Wooded areas, marshes, and any other conditions affecting the site;
- (h) The location of existing streets, buildings, watercourses, railroads, transmission lines, drainage structures, public utilities, jurisdiction lines, and any public utility easements on the tract being subdivided and on adjacent land within 100 feet of the tract being subdivided;
- (i) Proposed rights-of-way or easements including location, widths, purposes, and street names;
- (j) Proposed lot lines with bearings and distances, square footage or acreage of each and lot and block numbers;
- (k) Proposed minimum building setback lines;
- (l) Proposed parks, school sites, or other public open spaces, if any;
- (m) Site data:
 1. Acreage in total tract;
 2. Smallest lot size;
 3. Total number of lots;
 4. Linear feet in streets.
- (n) Any area within or adjacent within 100 feet of the proposed subdivision subject to inundation by the 100-year flood as defined herein, or subject to periodic inundation by storm drainage overflow or ponding,

shall be clearly shown and identified on the plat;

- (o) If all or any part of the proposed subdivision lies within an existing flood hazard zone as indicated on the latest Flood Insurance Rate Map (FIRM) for the area, a statement to that effect should be written on the Preliminary Plat and on the Final Plat.

§ 4.4.7 *Construction Plans.*

At the time of submission of the Preliminary Plat involving property within the corporate limits of the Town of Elberta as well as unzoned properties lying within the extraterritorial jurisdiction, the applicant shall also submit construction plans for all required improvements. All plans shall meet the minimum standards of design and general requirements for the construction of public improvements as set forth in these regulations. Construction plans shall be drawn at a scale of not less than one (1) inch equals fifty (50) feet and map sheets shall be of the same size as the Preliminary Plat. Construction plans shall be prepared by a State of Alabama Registered Engineer. The following construction plans shall be included:

- (a) Street Plan containing the following information:
1. Locations of all proposed and existing streets or rights-of-way in or adjacent to the subdivisions;
 2. Width of existing and proposed rights-of-way and easements;
 3. Street names;
 4. Plan and Profile of all streets, showing natural and finished grades drawn to scale of not less than one (1) inch equals one hundred (100) feet horizontal and one (1) inch equals ten (10) feet vertical;
 5. Cross sections of proposed streets at a minimum of 100-foot stations;
 6. Curve data for the centerline of each street: Delta, Tangent, and Radius;
 7. Location of all required sidewalks and crosswalks.
- (b) Storm Drainage Plan containing the following information:
1. Location of proposed drainageways, streams, and ponds in the subdivision;
 2. Topography at two-foot contour intervals; on more severe terrain, greater intervals may be accepted;
 3. Location, size, and invert elevations of proposed drainage structures including culverts, bridges, pipes, drop inlets, and top elevations of head walls, etc., showing details on Drainage plan, including conduit schedule;
 4. Construction details of typical manholes, connections, and other drainage structures proposed;
 5. Area of land contributing runoff to each drainage structure along with runoff calculations of each area and drainage calculations for each drainage structure and drainage ditch;
 6. Location of easements and rights-of-way for drainageways and maintenance access thereof;
 7. Typical cross sections of each drainage way;
 8. Direction of waterflow throughout [the] subdivision and compatibility with existing drainage;
 9. All runoff shall pass through a storm water treatment system prior to discharge from the site. Storm water treatment system [is] to be approved by [the] Town Engineer.
- (c) Sanitary Sewer Plan, if applicable, containing the following information:
1. Location and size of all existing and proposed sewers in the subdivision and tie-points of the subdivision. Location of sewer laterals;
 2. Direction of flow of each sewer line;
 3. Location of each manhole and other sewage system appurtenances including lift stations, oxidation ponds, and treatment plants, if any;
 4. Construction details of typical manholes, connections, and other sewage structures proposed;
 5. Plan and profile of sewage system.
- (d) Water Distribution Plan containing the following information:

1. Location and size of water distribution system including pipes, valves, fittings, and hydrants, high pressure.
- (e) Electric Distribution Plan containing the following information:
 1. Location of all poles or subsurface facilities as necessary to serve each lot or parcel of land within the subdivision.

§ 4.4.8 *Approvals.*

No Preliminary Plat shall be approved by the Town Planning Commission until each utility affected has submitted a letter to the Town Planning Commission as to whether the service to be provided by such utility is reasonable, adequate and that the provider is willing and able to service the proposed subdivision or development.

(Ord. of 8-20-2009)

Sec. 4.5. - Submission of Final Plat.

In accordance with the policy of the Town Planning Commission, no lot may be sold, or utilities extended to, or connected with, any subdivision of land, as defined herein, until the Final Plat has been approved by the Town Planning Commission.

§ 4.5.1 *Application Procedure and Requirements.*

In the case of a minor subdivision or following approval of the Preliminary Plat in the case of a major subdivision, the applicant shall file with the Town Planning Commission an application for approval of the Final Plat. The application shall:

- (a) Be made on forms available at the Office of the Planning and Zoning Department;
- (b) Be accompanied by the following fees made payable to the Town of Elberta:
 1. Filing Fee - One Hundred Fifty Dollars (\$150.00).
 2. Public Hearing Fee - One Hundred Fifty Dollars (\$150.00) - applicable to Minor S/D only.
 3. Engineering Plan Review and Site Inspection Fees - Actual Cost (applicant to be billed by the Planning and Zoning Department).
 4. Actual costs of publications or notifications regarding the Subdivision (applicant to be billed by the Planning and Zoning Department).
- (c) Be accompanied by ten (10) black or blue-line prints and 1 11x17 copy, all neatly folded, of the Final Plat;
- (d) Comply in all respects with the Preliminary Plat, as approved, except for minor modifications not altering the design of the subdivision; contour lines may be excluded at the discretion of the Planning Commission, in which case elevations shall be noted on the plat;
- (e) Be submitted to the Planning and Zoning Department at least thirty (30) days for a minor subdivision and fifteen (15) business days for a major subdivision prior to a regularly scheduled meeting of the Town Planning Commission;
- (f) Be submitted within two (2) years of the date of Preliminary Plat approval;
- (g) Be accompanied by a surety bond, if required, in a form satisfactory to the Town Attorney and in an amount sufficient to guarantee the actual construction and installation of such approved public streets, roads, drainage structures and public utilities.

§ 4.5.2 *Review, Approval, Signing and Recording of Final Plat.*

- (a) Within thirty (30) days of submittal of a complete and accurate application, the Town Planning Commission shall determine whether the Final Plat should be approved or not approved based on whether the development conforms to the provisions of these Regulations and the approved Preliminary Plat and the conditions, if any, imposed during review.
- (b) Upon determination that the Final Plat should be approved and that the installation of all required improvements has been satisfactorily completed in accordance with Town specifications and approved by the Town Engineer or that an acceptable financial guarantee has been provided for the satisfactory completion of

all required improvements, the original Final Plat tracing shall be signed by the person authorized by the Town Planning Commission to sign such plats.

- (c) Upon determination that the Final Plat should not be approved, the Town Planning Commission shall explain the deficiency in the plat to the subdivider with notice that a corrected plat may be resubmitted for approval.

§ 4.5.3 *Final Plat Requirements.*

The Final Plat shall be prepared by a State of Alabama registered engineer or land surveyor and shall be clearly and legibly drawn at a convenient scale of not less than one (1) inch equals one hundred (100) feet. The Final Plat, as submitted for approval, shall be prepared in ink on linen or a suitable permanent mylar reproducible. The sheet shall be of such size as is acceptable for filing in the Office of the Probate Judge, but shall not exceed twenty-four by thirty-six (24 x 36) inches. The Final Plat shall show the following:

- (a) Name of subdivision, north point, scale, and location;
- (b) The relation of the land so platted to the Government Survey of [the] Town of Elberta. The "point of beginning" as referred to in the written description shall be so indicated;
- (c) Sufficient data to determine readily and reproduce on the ground the location, bearing, and length of every street line, lot line, boundary line, and block line, whether straight or curved. This shall include the radius, central angle, point of tangency, tangent distance, and arc and chords;
- (d) The names and locations of adjoining subdivisions and streets, with reference to recorded plats by record name;
- (e) The exact position of the permanent monuments shall be indicated on the plat by a small circle "o";
- (f) Streets and alleys, rights-of-way, and street names;
- (g) All easements, including locations, widths, and purposes;
- (h) Lot lines, square footage or acreage of each lot and lot and block numbers;
- (i) Parks, school sites, or other public open spaces, if any;
- (j) All dimensions should be to the nearest one-hundredth (1/100) of a foot and angles within plus or minus five (5) seconds;
- (k) The following endorsements, dedications, and certificates shall be placed on the Final Plat as applicable (see Appendix I for sample certificates):
 1. Registered Engineer's or Land Surveyor's Certificate and Description of Land Platted;
 2. Dedication;
 3. Notary's Acknowledgment of the Dedication Certificate referred to in subsection (k)2;
 4. A Certificate of Approval by the appropriate electric, gas, telephone, water and sewer utility distributor;
 5. A Certificate of Approval by the Baldwin County Coastal Area Program;
 6. A Certificate of Approval by the Public Works Department for ROW(s) to be dedicated to the Town;
 7. A Certificate of Approval by the Town of Elberta Planning Commission;
 8. A Certificate of Approval by the Baldwin County Health Department;
 9. Registered Engineer's or Land Surveyor's Certificate of Flood Hazard Zone;
 10. Registered Engineer's Certification of Improvements.
- (l) The above certificates shall be lettered or typed on the Final Plat in such a manner as to ensure that said certificates will be legible on any prints made therefrom;
- (m) In addition to all of the above, the subdivider shall also submit to the Town Planning Commission copies of all Federal and State permits required for construction of the development shown on the plat.

§ 4-5-4 *Engineering Plan.*

At the time of Final Plat approval, the applicant shall also submit an engineering plan, or "as-built" plan, giving details of construction and locations of the improvements which have been installed. The primary purpose of the engineering plan is to provide the Town with a record of the location, size, and design of underground utilities for the Town's use in the course of maintaining such improvements. If the installation of improvements is completed under a bond, the engineering plan shall be submitted to the Town upon request of release of the bond by the applicant.

(Ord. of 8-20-2009)

ARTICLE 5. - DEVELOPMENT STANDARDS

Sec. 5.1. - Minimum standards.

The following standards shall be complied with, and no higher standard may be required by the Town Commission, except where, because of exceptional and unique conditions of topography, location, shape, size, drainage, wetlands, or other physical features of the site and surroundings, it would create unacceptable demands on the accompanying infrastructure. Any higher standard required shall be limited to the minimum additional improvements necessary to protect the accompanying infrastructure as determined by the Town Engineer. In addition to the requirements established herein, all subdivision plats shall comply with the following laws, rules, and regulations:

- (a) All applicable statutory provisions;
- (b) The special requirements and current rules of the Baldwin County Health Department and/or appropriate State agencies;
- (c) The current rules and standards of the State Highway Department if the subdivision or any lot contained therein abuts a State highway;
- (d) The current standards and regulations adopted by all boards, commissions, agencies, and officials of [the] Town of Elberta;
- (e) Plat approval may be withheld if a subdivision is not in conformity with the above guides or with the policy and purpose established in Article 1 of these regulations.

(Ord. of 8-20-2009)

Sec. 5.2. - General requirements.

§ 5.2.1 *Plats Straddling Jurisdictional Boundaries.*

Whenever access to a subdivision is required across land in another local government planning jurisdiction, the Town Planning Commission may request assurance from the Town Engineer, Attorney, or other appropriate official, that the access road is adequately improved, or that surety has been duly executed and is sufficient in amount to assure the construction of the access road.

§ 5.2.2 *Trees and Natural Features.*

Reasonable requirements for the preservation of outstanding natural features may be specified by the Town Planning Commission. These include large trees or groves, watercourses, historical sites, exceptional views, and similar irreplaceable assets.

§ 5.2.3 *Character of the Land.*

Land which the Town Planning Commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse soil formations or topography, utility easements, or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the applicant and approved by the Town Planning Commission, upon recommendation of the Town Engineer, to solve the problems created by the unsuitable

land conditions; otherwise such land shall be set aside for uses as shall not involve such a danger. It is therefore recommended that the applicant perform any necessary site investigations related to items such as soils, jurisdictional wetlands, flooding, drainage and natural habitats prior to submitting a Preliminary Plat for review.

Any development within jurisdictional wetlands is highly discouraged. No development shall be approved that proposes to fill either jurisdictional or non-jurisdictional wetlands in order to create buildable lots. Where a parcel of land proposed to be subdivided contains an area of wetlands delineated as jurisdictional by the Army Corps of Engineers, said wetlands shall be subject to Section 404(b)1 guidelines concerning fill material disposal into wetlands. Lots may only be platted where sufficient upland areas exist to provide a building site for the main structure and necessary ancillary facilities. Fill may be used only where necessary to provide access to lots where approval for such fill has been received from the Army Corps of Engineers and other appropriate governmental agencies. The building setback line from wetlands shall be 30 feet. In addition, a minimum 5-foot natural buffer shall be provided upland of all jurisdictional wetlands.

Land within any Floodway District shall not be platted for residential occupancy or building sites. Land outside the floodway but subject to flood may be platted for residential occupancy provided each lot contains a building site that may reasonably lend itself to construction of a minimum floor level of one (1) foot above base flood elevation, or for such other uses which will not increase the danger to health, life, and property. Fill may not be used to raise land in the floodway. In other areas subject to flood, fill may be used providing the proposed fill does not restrict the flow of water and unduly increase flood heights or unnaturally redirect storm water to adjacent properties.

Land subject to flood must not be platted as lots unless the developer demonstrates to the satisfaction of the Town of Elberta Planning Commission and the Town Engineer that the property in question is free from danger of inundation by the base flood or that remedial measures have been taken to allow the watercourse to safely accommodate the base flood. The developer shall submit such data or studies based on the watershed characteristics, probable runoff, and other topographic and hydraulic data prepared by a licensed professional engineer as the Town of Elberta Planning Commission or Town Engineer may require to make its determination of the flood susceptibility of the property.

§ 5.2.4 *Subdivision Name.*

The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The Town Planning Commission shall have final authority to designate the name of the subdivision which shall be determined at Preliminary Plat approval.

§ 5.2.5 *Waterbodies and Watercourses.*

If a tract being subdivided contains a water body, or portion thereof, the ownership of and responsibility for safe maintenance of the water body shall be such that it will not become a Town responsibility. No public roadways will be approved which provide access across dams.

(Ord. of 8-20-2009)

Sec. 5.3. - Street plan.

The arrangement, character, extent, location and grade of all streets shall be laid out according to good land planning principles and shall be integrated with all existing and planned streets. New streets shall consider topographical conditions, orientation to vistas, public convenience and safety, and the proposed uses of land to be served by them.

§ 5.3.1 *Continuation of Adjoining Street System.*

Proposed new streets shall extend existing streets or their projections at the same or greater width, but in no case less than the minimum required width, unless variations are deemed necessary by the Town Planning Commission for reason of topography or design.

§ 5.3.2 *Access to Adjacent Properties.*

Where, in the opinion of the Town Planning Commission, it is desirable to provide for street access to an adjoining property, streets shall be extended by dedication to the boundary of such property at a minimum of one (1) per quarter mile.

§ 5.3.3 *Marginal Access Streets.*

Where, in the opinion of the Town Planning Commission, development which abuts or has included within the proposed subdivided area any arterial, the Town Planning Commission may require a marginal access street or other treatment which may be necessary to provide for the adequate protection of properties, and to afford separation of through and local traffic.

§ 5.3.4 *Private Streets.*

There shall be no private streets platted within a subdivision where abutting properties will be sold, whether immediately or in the future, to the public; however, in certain instances, private streets may be approved by the Town Planning Commission, provided they are constructed according to the standards of [the] Town of Elberta.

In the event that the Town Planning Commission does approve a private street, it is recommended the Commission require the developer to install a sign of reasonable size stating that the arterial is a private street and is not subject to public maintenance by the Town. Such statements shall also be shown on the preliminary and the final plats.

§ 5.3.5 *Private Reserve Strips.*

Private reserve strips controlling access to streets shall be prohibited.

§ 5.3.6 *Additional Width on Existing Roads.*

Subdivisions that adjoin existing streets with inadequate rights-of-way shall dedicate additional rights-of-way to meet the minimum street width requirements.

§ 5.3.7 *Street Names.*

Proposed streets, which are obviously in alignment with others existing and named, shall bear the assigned name of the existing streets. In no case shall the names of proposed streets duplicate or be phonetically similar to existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, place, court, etc. Naming shall be consistent with the directional line of the street as follows:

Through streets lying east and west	Avenues
Through streets lying north and south	Streets
Through streets lying other than what can be termed north and south or east and west	Roads
Cul-de-sacs	Lanes
Rambling streets	Drives

Street names are subject to the approval of the Town Planning Commission.

§ 5-3-8 *New Half-streets and New Half-alleys.*

No new half-streets or half-alleys shall be platted.

§ 5-3-9 *Vacating a Street or Easement.*

No street or easement may be vacated unless a petition for that purpose (accompanied by the necessary documents specified by the Town Council) is submitted through the Town Planning Commission to the Town Council. The Town Planning Commission shall review such petition and make recommendations to the Town Council, whose decision, following a public hearing, shall be final.

§ 5.3.10 *Frontage on Improved Roads.*

- (a) No minor subdivision shall be approved unless the area to be subdivided shall have frontage on, and access from, an existing State or County highway; or
- (b) A street upon a plat approved by the Town Planning Commission and recorded in the Baldwin County Probate Judge's Office. Such street or highway must be suitably improved as required by rules, regulations, specifications, or orders, or be secured by an improvement guarantee required under these subdivision regulations, with the width and right-of-way required by these subdivision regulations.

§ 5.3.11 *Topography and Arrangement.*

- (a) Roads shall be related appropriately to the topography. Minor streets shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be arranged so as to obtain as many as possible of the building sites at, or above, the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the Design Standards (Section 5.4) of these regulations.
- (b) All proposed streets shall be properly integrated with the existing system of streets.
- (c) All arterials shall be properly related to specific traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.
- (d) Minor streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.
- (e) The rigid rectangular gridiron street pattern need not necessarily be adhered to, and the use of curvilinear streets, cul-de-sacs, or U-shaped streets will be accepted where such use will result in a more desirable layout.
- (f) Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless, in the opinion of the Town Planning Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision or with the existing layout of the most advantageous future development of adjacent tracts.
- (g) In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement among the various types of traffic, including pedestrian.

§ 5.3.12 *Access to Arterials.*

Where a subdivision borders on or contains an existing or proposed arterial, the Planning Commission may require that access to such arterial be limited by one of the following means:

- (a) The subdivision of lots so as to back onto the arterial and front onto a parallel minor street; no access shall be provided from the arterial, and screening shall be provided in a strip of land along the rear property line of such lots;
- (b) A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial;
- (c) A marginal access or service road (separated from the arterial by a planting or grass strip and having access thereto at suitable points).

§ 5.3.13 *Excess Right-of-way or Easements.*

Right-of-way or easement widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of two [to] one.

§ 5.3.14 *Railroads, Arterials, and Major Thoroughfares.*

Railroad rights-of-way, arterials, and expressways where so located as to affect the subdivision of adjoining lands shall be treated as follows:

- (a) In residential districts, a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way, arterial or expressway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures hereon is prohibited";
- (b) In areas proposed for business, commercial, or industrial uses, the nearest street extending parallel or approximately parallel to the railroad shall, wherever practical, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites;
- (c) Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practical, be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

§ 5.3.15 *Cul-De-Sacs.*

Permanent dead-end streets shall not exceed 1,320 (¼ mile) feet in length, and shall be provided with an improved turnaround having a roadway diameter of at least eighty (80) feet and a right-of-way diameter of at least one hundred (100) feet at the end as well as every 750' throughout the roadway.

§ 5.3.16 *Intersections.*

Street intersections shall be laid out as follows:

- (a) Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) new streets at an angle of less than seventy-five (75) degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet therefrom. Not more than two (2) streets shall intersect at any one point unless specifically approved by the Planning Commission;
- (b) Proposed new intersections along one side of an existing street shall, wherever practical, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than 125 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where minor streets intersect collectors or arterials, their alignment shall be continuous. Intersections of arterials shall be at least eight hundred (800) feet apart. Where a street intersects a state highway, the design standards of the State Highway Department shall apply;
- (c) Minimum curb radius at the intersection of two (2) minor streets shall be at least twenty (20) feet; and minimum curb radius at an intersection involving a collector street shall be at least twenty-five (25) feet;
- (d) Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having a grade not greater than five percent (5%) at a distance of fifty (50) feet, measured from the nearest right-of-way line of the intersecting street;
- (e) Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the applicant shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary

to provide an adequate sight distance;

- (f) The cross-slopes on all streets, including intersections, shall be five percent (5%) or less;
- (g) Property lines at street intersections shall be rounded with a minimum radius of twenty (20) feet with [an] easement for site clearance of no less than thirty (30) feet;
- (h) Deceleration and/or acceleration lanes may be required where necessary to maintain a safe flow of traffic on existing or proposed streets.

§ 5.3.17 *Perimeter Streets.*

Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the applicant. The Town Planning Commission may authorize a new perimeter street where the applicant improves and dedicates the entire required street right-of-way width within his own subdivision boundaries.

§ 5.3.18 *Street Elevations.*

The Planning Commission may require, where necessary, profiles and elevations of streets for areas subject to flooding. No street shall be approved for construction within an area subject to flooding that is proposed to be constructed more than two (2) feet below the elevation of the base flood, as defined in these regulations. Fill may be used for streets. Drainage openings shall be so designed as not to restrict the flow of flood waters or increase upstream flood heights.

§ 5.3.19 *Common Driveways.*

- (a) Where lots will access an existing off-site publicly maintained street, common driveways shall be used where appropriate to minimize the number of curb cuts required.
- (b) The maximum number of lots served by a common driveway shall be two (2).
- (c) Common driveways shall be contained within a private ingress and egress easement labeled as such on the final plat. Said easement shall be of sufficient width (minimum of 30 feet) to contain the common driveway and any utilities and provide adequate ingress and egress.
- (d) The final plat of a subdivision in which common driveways are utilized shall contain the following notation "The common driveway shown hereon is private and will not be maintained by Town of Elberta."
- (e) All subdivisions using common driveways shall provide for the establishment of a Homeowners Association to be responsible for the maintenance of the common driveway outside of the public right-of-way.
- (f) If common driveways are proposed or required, they shall be installed by the developer prior to the Final Plat being signed by the Town of Elberta Planning Commission for recording.

(Ord. of 8-20-2009)

Sec. 5.4. - Design standards.

The following design standards shall be considered minimum requirements * and shall specifically apply to residential subdivisions. The requirements for nonresidential subdivisions (See Section 9.4) shall be such as the Town Planning Commission deems appropriate for the type of development and use contemplated, but in no event shall they be less than the requirements for residential subdivisions.

	Minimum ROW Width	Minimum Street Width	Maximum Number of Lots	Minimum Lot Size	Minimum Curb & Gutter	Minimum Design Standard
Collector	80 feet	24 feet	n/a	8,000 sq. ft. (1)	n/a	(4)

Residential Access Street Type 1	50 feet	22 feet	n/a	8,000 sq. ft. (1)	(3)	(4)
Residential Access Street Type 2	60 feet	22 feet	n/a	15,000 sq. ft. (2)	n/a	(4)
Residential Access Street Type 3	60 feet	20 feet	40	1 acre (2)	n/a	(4)
Country Lane Paved	50 feet	18 feet	20	3 acres (2)	n/a	(4)
Country Lane/Mobile Home Park Access Street Hard Surface	50 feet	20 feet	15 (Per 3 Acres)	8,000 sq. ft. (2)	n/a	(5)

(1) Lot area to meet minimum zoning or Health Department requirements or as stated above.*

(2) Lot area to meet minimum zoning or Health Department requirements or as stated above.*

(3) 24" combination curb and gutter. 30" valley gutter, or other approved curb and gutter.

(4) All paved street design and construction shall conform to current ALDOT specifications or Town of Elberta Public Works Department regulations.

(5) Hard surface. Can consist of limestone, gravel, shell or pavement.

§ 5.4.1 *Street Grades.*

Street grades shall not exceed the following unless otherwise approved by the Town Engineer and the Town Planning Commission:

Collector	12%
Residential Access Street	15%
Country Lane	15%

§ 5.4.2 *Horizontal Curves.*

Where a centerline deflection angle occurs, a circular curve shall be introduced having a centerline radius of not less than the following:

Collector	300 feet
Residential Access Street	100 feet
Country Lane	100 feet

§ 5.4.3 *Tangents.*

Tangents of less than one hundred (100) feet provided between reverse curves shall be approved by the Town Engineer on all streets.

§ 5.4.4 *Vertical Curves.*

All changes in street grades shall be connected by vertical curves of a minimum length equivalent to the following:

- (a) On roads with a ROW greater than eighty (80) feet in width, minimum sight distance shall be six hundred (600) feet, measured between points three and one-half (3.5) feet above the centerline of the road;
- (b) On roads with a ROW less than eighty (80) feet in width, minimum sight distance shall be four hundred (400) feet measured between points three and one-half (3.5) feet above the centerline of the road.

§ 5.4.7 *Centerline Offsets.*

The minimum distance between centerline offsets at street jogs shall be one hundred and twenty-five (125) feet.

(Ord. of 8-20-2009)

Sec. 5.5. - Blocks.

- (a) Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to expressways, arterials, railroads, or waterways where single-tier lots are required to separate residential development from through vehicular traffic or nonresidential uses;
- (b) Blocks shall not exceed fifteen hundred (1,500) feet nor be less than five hundred (500) feet in length;
- (c) In long blocks, the Town Planning Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic;
- (d) Pedestrianways or crosswalks not less than ten (10) feet wide may be required by the Town Planning Commission through the center of blocks more than eight hundred (800) feet long where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities. Blocks designed for industrial uses shall be of such length and width as may be determined suitable by the Town Planning Commission for prospective use.

Sec. 5.6. - Lots.

Residential lots shall comply with the following requirements or the zoning requirements of the applicable district for zoned properties:

- (a) The size, shape and orientation of lots shall be such as the Town Planning Commission deems appropriate for the types of development and use contemplated.
- (b) Minimum lot size shall be as follows, except in cases where additional lot area may be required by the County Health Department:
 1. Where public water and sewer is not provided, said lot shall be a minimum of forty thousand (40,000) square feet in area with a minimum lot width of 120 feet.
 2. Where either public water or centralized wastewater collection and treatment only is provided, said lot shall be a minimum of fifteen thousand (15,000) square feet in area unless additional lot area is required to meet Health Department requirements.
 3. Where public water and sewer is provided, said lot shall be a minimum of eight thousand (8,000) square feet in area unless more or less lot area is required to meet minimum zoning requirements or Mobile Home Park subdivision requirements.
- (c) The subdivision plat shall provide each lot with satisfactory access to an existing street as provided in Section

5.3.10.

- (d) Where land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further resubdivision.
- (e) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street parking and loading for the use contemplated.
- (f) Double frontage lots shall be avoided, except where essential to provide separation of residential development from traffic arterials, or to overcome specific disadvantages of topography or orientation.
- (g) Side lot lines should be at right angles to streets, except on curves, where they shall be radial.
- (h) Excessive depth in relation to width shall be avoided. A proportion of 3 to 1 will normally be considered maximum.
- (i) Minimal lot size should be buildable/usable land as defined in these regulations.
- (j) In areas which have elected to come within the zoning authority of the Town of Elberta or the Baldwin County Commission, minimum lot width and setbacks from property lines shall meet or exceed minimum zoning requirements. In residential subdivisions outside the zoning authority of the Town of Elberta or the Baldwin County Commission, minimum lot width shall be eighty (80) feet measured at the front setback line and the minimum setback from property lines shall be: from the front and rear lot line, 30 feet, from the side lot line, 10 feet and, from the side lot line which abuts a street, 20 feet.
- (k) In accordance with Act No. 94-572 of the Legislature of Alabama enacted April 21, 1994 [Code of Ala. 1975, § 45-2-260], the following construction setbacks shall apply from any state or county road or highway:
 1. Principal arterials require a one hundred twenty-five (125) foot setback from the centerline of the right-of-way;
 2. Minor arterials require a one hundred (100) foot setback from the centerline of the right-of-way;
 3. Major collectors require a seventy-five (75) foot setback from the centerline of the right-of-way; and
 4. Minor collectors require a fifty (50) foot setback from the centerline of the right-of-way.

(Ord. of 8-20-2009)

Sec. 5.7. - Drainage.

§ 5.7.1 *General Policy.*

The main objective of drainage design shall be the safety of the traveling public with the protection of Town and private property consistent with good engineering practice.

§ 5.7.2 *Drainage and Storm Sewers.*

- (a) *General Requirements.* The responsible Design Engineer shall not recommend for approval any plat of a subdivision which does not appear to make adequate provision for storm or flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. A copy of basic design computations shall be submitted along with plans. Inlets shall be provided so that surface water is not carried across any intersection, nor for a distance of more than 600 feet in the gutter unless approved by the Design Engineer. When calculations indicate that curb capacities are exceeded at a point, catch basins shall be used to intercept flow at that point.

The drainage systems for all areas shall normally accommodate flows from at least a 25-year frequency design storm.

- (b) *Location.* The applicant may be required by the responsible Design Engineer to carry away by pipe or open ditch any spring or surface water that may exist either previously to, or as a result of, the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the current Alabama Highway Department Standards and Specifications.
- (c) *Accessibility to Public Storm Sewers.* Where a public storm sewer is accessible, the applicant may be required to

install storm sewer facilities, or, if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the Design Engineer. Inspection of facilities shall be conducted by the Design Engineer.

If a connection to a public storm sewer will be provided eventually, as determined by the Design Engineer, the developer shall make arrangements for future storm water disposal by a storm sewer system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the performance surety required for the subdivision plat.

- (d) *Accommodation of Upstream Drainage Areas.* A culvert or other drainage facility shall, in each case, be large enough to accommodate potential developed property runoff from its entire upstream drainage area, whether inside or outside the subdivision or development. The Design Engineer will review the necessary size of the facility, based on the provisions of the construction standards and specifications.
- (e) *Effect on Downstream Drainage Areas.* The Design Engineer shall also review the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. These drainage studies, together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Town Engineer may withhold approval of the subdivision until provision has been made for the improvement of said potential condition in such sum as the Town Engineer shall determine. No subdivision or development shall be approved unless adequate drainage will be provided to the natural drainage watercourse or an existing facility.

§ 5.7.3 *Dedication of Drainage Common Areas.*

- (a) *General Requirements.* Where a subdivision or development of land is traversed by a watercourse, drainageway, channel, or stream, there shall be provided a storm water or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction, or both, as will be adequate for the purpose.
- (b) *Drainage Common Areas.* Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, common areas at least fifteen (15) feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Common areas shall be indicated on the record plat. Drainage shall be carried from the road to the natural watercourse or to other drainage facilities.

The applicant may be required to dedicate, either in fee or by drainage common areas, land on both sides of existing watercourses to a distance to be determined by the Design Engineer.

Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainageways, except where improvements are warranted as may be deemed necessary by the Design Engineer.

§ 5.7.4 *Drainage, General Provisions.*

All subdivisions, commercial and industrial developments shall be provided with adequate storm drainage facilities. Any areas subject to periodic flooding caused by poor drainage facilities will not be accepted by the Design Engineer unless the developer or subdivider makes necessary provisions to eliminate such flooding.

A complete drainage plan and contour map showing the pipe sizes, their locations and the areas to be drained, shall be submitted along with the profile grades and typical roadway section for approval.

All existing drainage structures shall be shown on the preliminary plat, contour map, and construction plans.

All off-project drainage, draining onto the subdivision, shall be shown on contour maps and/or construction plans showing the areas, in acres, that the subdivision will have to accommodate.

On any single drainage structure requiring 20 square feet or more of end area, a special design drawing will be required for approval. All roadway cross drain pipes shall be reinforced concrete and have a minimum size of 18 inches. Only pipe that meets specifications equaling Alabama State Highway Department Specifications or Town of Elberta Standards will be acceptable.

No oil drums or unacceptable pipe shall be used.

Where the subdivider or developer has open ditches, a maximum of 3 to 1 front slopes and flat bottom ditch is required. The width of the ditch shall be determined by the required flows and the existing conditions and be approved by the Design Engineer. V-bottom ditches or other special designs will be permitted in special cases. Resulting 2-year peak flow rates in the natural system or open ditch drainage shall be less than the critical rates that would cause excessive channel scour, as shown in section 5.7.8.

These provisions apply to all developers or subdividers.

§ 5.7.5 *Engineering Plans.*

The developer or contractor shall submit detailed drainage plans and drainage calculations to the Town for review and approval for all developments affecting rights-of-way lying within the jurisdiction of these regulations. Said plans shall be prepared by a Professional Engineer registered in the State of Alabama and shall contain the following information:

- (a) Topography map of proposed developed areas.
- (b) Existing and proposed contours at sufficient intervals, usually 2 feet if not over 5%.
- (c) Existing drainage system.
- (d) Proposed drainage system, including on-site and off-site drainage areas.
- (e) Structure location, type and size, and slope, cfs, Inlet El., Outlet El., Velocity, Headwater El., Tailwater El.
- (f) Discharge quantities, pre- and post-runoff cfs.
- (g) Other pertinent information necessary for review of the drainage plans as may be required by the Design Engineer.
- (h) Erosion and sediment control plan.
- (i) Description of natural water body to receive the site runoff.

§ 5.7.6 *Culverts.*

- (a) Culverts under arterial roadways shall normally accommodate a minimum of 25-year frequency design storm. Conditions may dictate that 100-year design storms must be accommodated.
- (b) Culverts under all other roadways shall normally accommodate a minimum of a 25-year storm.
- (c) Design storm criteria will be used by the Design Engineer based on the site-specific conditions that warrant life and property protection.
- (d) All types of culverts within the rights-of-way of public roads must be approved by the Design Engineer and shall conform to Alabama State Highway Department Standards or Town of Elberta Standards.
- (e) Culverts shall be placed in excavated trenches to the line and grade shown on the plans. The maximum width of the excavated trenches shall not exceed the outside diameter of the pipe by more than 1.5 feet on either side of the pipe.
- (f) Material used for backfilling culvert trenches shall consist of small diameter uniform material and shall be free of large rocks or other unsuitable material. The backfill material shall be placed in uniform 8-inch lifts and mechanically compacted to 95% of relative density. The backfill shall be placed uniformly on each side of the pipe and all pipes shall be laid in accordance with Town Standards.
- (g) Minimum cover over culverts shall be as recommended by the manufacturer and shall be no less than 12" for each culvert pipe 48" or less in diameter, and 24" for larger diameter pipes.
- (h) When a battery of pipes is used, a clear spacing of ½ the pipe diameter shall be provided between adjacent pipes.
- (i) The maximum cover allowed, pipe class, and strength requirements shall be in accordance with the manufacturer's recommendation.

- (j) The velocity of the flow in culverts shall be calculated using ranges from the latest edition of the Alabama Highway Department Hydraulics Manual.
- (k) The minimum size reinforced concrete culvert permitted is 18 inches in diameter under public roadways or streets.

§ 5.7.7 *Bridges.*

Bridges shall accommodate a minimum of a 100-year frequency design storm.

§ 5.7.8 *Open Channels and Ditches.*

- (a) Open channels and ditches shall be designed so as not to create a traffic hazard or create hazardous erosion.
- (b) The minimum flow line slope for paved ditches shall be 0.3% and shall be a maximum of 1% for unpaved ditches.
- (c) The recommended maximum flow velocities shall be in accordance with the ranges recommended in the latest edition of the Alabama Highway Department Hydraulics Manual.
- (d) Cleanout accesses shall be provided at least every 300 feet for continuous pipes of 24 inches in diameter or less and at least every 400 feet for larger continuous pipes if required. Clean out accesses are also required at each angle point and at each change in grade.

§ 5.7.9 *Storm Runoff Estimates.*

- (a) Basic design data and calculations shall be prepared, sealed and submitted by a registered professional engineer in the State of Alabama for the developer, contractor or owner.
- (b) The method of determining storm runoff shall be based on acceptable engineering practices and/or these standards.

For small basins, up to 200 acres, the Rational Method ($Q=ciIa$) may be used.

Q = estimated peak discharge in cubic feet per second.

c = runoff coefficient (to be taken from the table below).

I = rainfall intensity in inches per hour for a design storm derived from the time of concentration

a = runoff area in acres

- (c) Recommended "C" Values.

1. *Flat or Rolling Terrain.*

Farmland	0.30
Barren	0.40 to 0.60
Irrigated	0.60 to 0.70

2. *Streets and Parking Lots (asphalt, concrete, gravel, etc.).*

Unpaved	0.60 to 0.80
Paved	0.90

3. *Improvements.*

Buildings	0.90 to 1.00
Lawns	0.30

§ 5.7.10 *Special Construction.*

- (a) *Concrete Box Culverts.* Concrete box culverts used as culverts shall be designed and constructed according to the latest edition of the Standards and Specifications for Road and Bridge Construction, Alabama State Division of Highways.
- (b) *Headwalls and Riprap.* Culvert headwalls shall be required on pipe culverts and shall be placed and constructed where and when directed by the Town. Special types of headwalls may be required by the Town when deemed necessary for erosion control. Riprap may be required at the upstream and downstream ends of culverts and shall be placed at these locations based on the velocities at these locations.

(Ord. of 8-20-2009)

Sec. 5.8. - Erosion and sedimentation.

§ 5.8.1 *General.*

Erosion and sedimentation can be somewhat effectively controlled, but cannot be completely eliminated, either during active construction or after stabilization, from both a technical and an economic standpoint.

Natural erosion during storm water runoff has always occurred and will continue at low rates from well-stabilized areas. It may cause stress, turbidity, scour and sedimentation regardless of the control measures applied. During construction, accelerated erosion will occur during storm water runoff with a proportionate increase in visible erosion, scour and siltation both within and outside of the construction site.

The following provisions impose requirements on persons engaged in land-disturbing activities which require planning and implementation of effective sedimentation controls for subdivision development sites.

- (a) *Construction Requirements.* An erosion and sedimentation control plan shall be a part of the construction plans and shall be filed with the Town prior to the commencement of any land-disturbing activity including but not limited to tree cutting and root removal.
- (b) *Protection of Property.* Persons engaged in land-disturbing activities shall take all reasonable measures to protect all public and private property, including roadways, from damage by such activities.
- (c) *More Restrictive Rules Shall Apply.* Whenever there is a conflict between Federal, State, or Local Laws, Ordinances, Rules and Regulations, Orders, and Decrees, the more restrictive provision shall apply.

§ 5.8.2 *Basic Control Objectives.*

The basic control objectives which should be considered in developing and implementing an erosion and sedimentation control plan are:

- (a) *Identify Critical Areas.* On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.
- (b) *Limit Exposed Areas.* All land-disturbing activities should be planned and conducted to minimize the size of the area to be exposed at any one time.
- (c) *Limit Time of Exposure.* Disturbed soils must be stabilized by temporary or permanent erosion control fourteen (14) days after clearing and inactivity in construction.
- (d) *Control Surface Water.* Surface water runoff originating upgrade of exposed areas should be controlled to

reduce erosion and sediment loss during the period of exposure.

- (e) *Control Sedimentation.* All land-disturbing activities should be planned and conducted so as to minimize off-site sedimentation damage.
- (f) *Manage Storm Water Runoff.* When the increase in the peak rates and velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause damaging accelerated erosion of the receiving ditch or channel stream, plans should include measures to control both the velocity and rate of release so as to minimize accelerated erosion and increased sedimentation of the ditch or stream channel.
- (g) *Mandatory Standards.* No land-disturbing activity subject to these provisions and requirements shall be undertaken except in accordance with the following mandatory requirements:
 - 1. No land-disturbing activity shall be permitted in proximity to a lake, natural watercourse, or adjacent property, where applicable, unless a buffer zone is provided along the boundary of sufficient width to confine visible siltation and/or prevent erosion, provided that the land-disturbing activity is not in connection with the construction of facilities to be located on, over, or under a lake, natural watercourse, or adjacent property.
 - 2. The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within the shortest feasible time of feasible grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.
- (h) *Design and Performance Standards.* Erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed as to provide control from the calculated peak rates of runoff from a 25-year storm event. Runoff computations shall be based on rainfall data published by the National Weather Service for the area.
- (i) *Permanent Downstream Protection of Stream Banks And Channels.* Provision may be required for the permanent protection of on-site or adjacent stream banks and channels from the erosive effects of increased velocity and volume of storm water runoff resulting from certain land-disturbing activities.
- (j) [*Where Required.*] A combination of storage and controlled release of storm water runoff may be required for highway construction; commercial, industrial, educational, and institutional developments of one acre or more; for multi-family residential developments of five acres or more; and, for single-family developments of ten acres or more.
- (k) [*Release Rates; Detention Facilities.*] When required, post development release rates shall not exceed pre-development rates for a 25-year, 24-hour storm event. Provisions shall be made to address 100-year storm events to ensure that detention facilities survive such events. Detention facilities shall be owned, operated and maintained by development entities and shall not be accepted for maintenance by the Town of Elberta.
- (l) *Operations in Lakes or Natural Watercourses.* Land-disturbing activity in connection with construction, in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the stream flow characteristics, except when justification for significant alteration to flow characteristic is provided.
- (m) *Responsibility For Maintenance.* The person engaged in or conducting the land-disturbing activity shall be responsible for maintaining all temporary and permanent erosion and sedimentation measures and facilities during the development of a site. The responsibility for maintaining all permanent erosion and sedimentation control measures and facilities after site development is completed shall lie with the landowner, until such time adequate vegetative cover and site stabilization is achieved. Maintenance of these facilities lies with the landowner until assumed by other parties.
- (n) *Standards for Erosion and Sediment Control Practices.* Persons engaged in planning, designing, installing and maintaining sedimentation control measures may use generally accepted references on the subject following

standard engineering and/or practices such as the current edition of the Alabama Handbook for Erosion and Sediment Control. All plans will be subject to review by the Town.

- (o) *Additional Measures.* Whenever the Town determines that significant sedimentation is occurring as a result of a land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity or the person responsible for maintenance will be required to take additional protective action.

§ 5.8.3 *Plan Requirement.*

Whenever the area to be disturbed comprises more than one acre, a copy of the plan shall be filed with the Town a minimum of 30 days prior to beginning any land-disturbing activity. A copy of the plans shall also be on file at the job site. If the Town determines, either upon review of such plan or on inspection of the job site, that a significant risk of off-site sedimentation or erosion exists, it will require a revised plan to be prepared. Pending the preparation of the revised plan, the work shall be either suspended or continued under conditions outlined by the Town.

Erosion and sediment control plans shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to describe adequately the proposed development of the site and the measures planned to meet the Basic Control Objectives. Plan content may vary to meet the needs of specific site conditions.

(Ord. of 8-20-2009)

Sec. 5.9. - Storm water detention.

§ 5.9.1 *General.*

Developments which produce an increase in the amount of storm water runoff may be required to construct storm water detention ponds or other approved types of detention devices.

When required, the developer shall submit, detailed engineering plans to the Town including historical runoff, developed runoff, detention pond details, method of discharge, and other information as required by the Town Engineer for review. The developer shall also include the method of maintenance for the detention pond or detention device after the development is completed.

§ 5.9.2 *Minimum Requirements for Storm Water Detention and Design Criteria.*

Among the consequences of growth and development, two are of great relevance to storm water management: Increased runoff created by the change of the nature and properties of the surface of the ground and velocity of discharge of this increased runoff.

The natural condition of the land before development is in relative balance with the natural capacity of the receiving streams. The undeveloped conditions provide greater permeability and longer time of concentration. By modification of the surface from the irregular, pervious, and with vegetation, the areas are changed to more impervious, more effectively drained and in most cases denuded of vegetation. It is the intent of this section to alert the developers to possible harmful effects from any land development project on properties downstream and provide a guideline for evaluation and control of the elements related to storm water which affect the welfare and safety of Town of Elberta citizens and residents in the jurisdictional areas.

In order to provide some control of these possible harmful elements of development and to reduce economic losses due to erosion and flooding, the criteria of differential runoff and storm water detention are hereby established. Post-development release rates shall NOT exceed pre-development rates. When feasible, the differential runoff should be less.

The terms of these design criteria shall become effective for all projects under direct jurisdiction of the Town.

- (a) *Jurisdiction.* All projects which fall under the inspection, permitting, or plan review jurisdiction of the Town, on items related to storm water management and site development within the unincorporated areas of [the] Town of Elberta.

- (b) *Liability.* The design criteria establish minimum elements of design which must be implemented with good engineering workmanship. Use of the information contained herein for placement of any structure or use of land, shall not constitute representation, guarantee, or warranty of any kind by [the] Town of Elberta, its offices or employees, of the practical safety and shall not create liability upon or cause action against any such public body, office, or employee for any result pursuant thereto.
- (c) *Engineer's Seal.* All plans and specifications submitted for review and/or approval shall be prepared by, or under the direct supervision of, a registered professional engineer, licensed in the State of Alabama, and shall meet the minimum standards and requirements of the Town, and other applicable authorities. Each of the plan, profile and special drawing sheets for a project shall bear a legible stamp of the Professional Engineer in charge. If the name or license number is not clear, the signature and number shall be added. It is imperative that the professional design engineer be qualified in the area of drainage per the State of Alabama registration laws.
- (d) *Pre-design Conference.* The developer and the consulting engineer are encouraged to contact the Planning and Zoning Department of the Town for a pre-design conference at the conceptual stage of the project. Such conference would be mutually beneficial to outline the complexity and scope of design, applicability of criteria and elimination of possible items of conflict during the review process. Subsequent conferences, during the preparation of plans may be arranged by the consulting engineer or the developer to obtain preliminary, informal decisions on items in need of clarification.
- (e) *Letter of Transmittal.* In order to facilitate review of plans, all projects shall be submitted with a letter of transmittal which shall include the name of the project, name and address of the owner or developer, name, address and telephone number of the engineer, and clarification as to the purpose of submittal.
- Documents left in the office without a letter of transmittal will be returned to the owner or engineer (if proper identification can be made).
- (f) *Differential Runoff.* The difference in rate and volume of storm water runoff from a parcel or project in its undeveloped natural condition, and its developed condition is known as the Differential Runoff.
- (g) *Developments Affected.* Detention requirements are directly related to permitted land use of [the] Town of Elberta where it exists. The permitted densities and minimum lot areas are important factors in the anticipated runoff. Projects of small acreage may be required to provide detention if conditions in the receiving system are inadequate, or harmful effects can be anticipated if detention is not implemented.
- (h) *Phasing And Platting.* The effective acreage for a project is not limited to a fractional part of the total concept, rather if a project is developed in phases of small plats, the total acreage of the conceptual project will be considered.
- (i) *Method of Evaluation.* Differential runoff evaluation consists of determination of rates of runoff before and after development, determination of required volume of detention and verification of adequacy of discharge and control structures. Design should be based on a 25-year storm, a 24-hour event, or greater for industrial, commercial, apartments and townhouses. Provisions shall be made to address 100-year storm events to ensure that detention facilities survive such events. This shall be based on sound engineering criteria and computations shall be submitted to the Town Engineer for review and approval.
- (j) *Method of Detention.* The following conditions and limitations should be observed in selection and use of method of detention.
- (k) *General Location.* Detention facilities shall be located within the parcel limits of the project under consideration. No detention or ponding will be permitted within public road rights-of-way. Location of detention facilities immediately upstream or downstream of the project will be considered by special request if proper documentation is submitted with reference to practicality, feasibility and proof of ownership or right-of-use of the area proposed.
- (l) *Common Ground Projects.* It is preferred that detention facilities be always located in common ground. Projects developed under these procedures shall establish (in the recorded plat) maintenance and access

easements for the detention facilities and include provisions for maintenance in the Trust Indentures.

- (m) [*Prior to Final Plat Approval.*] The entire reservoir area of the open channel shall be seeded, fertilized and mulched, sodded, paved, or lined prior to final plat approval by the Town.
- (n) [*Hydraulic Elevations.*] The hydraulic elevations resulting from channel detention shall not adversely affect adjoining properties.
- (o) *Permanent Lakes.* Permanent lakes with fluctuating volume controls may be used as detention areas provided that the limits of maximum ponding elevations are no closer than thirty (30) feet horizontally from any building and less than two (2) feet below the lowest sill elevation of any building.
1. Maximum side slopes for the fluctuating area of permanent lakes shall be one (1) foot vertical to three (3) feet horizontal (3:1) unless proper provisions are included for safety, stability and ease of maintenance.
 2. Maximum fluctuation from permanent pool elevation to maximum ponding elevation shall be three (3) feet.
 3. Special consideration is suggested to safety and accessibility for small children in design of permanent lakes in residential areas.
 4. Viability of the permanent impoundment shall be considered. An acceptable guideline is to make the area of the permanent pool no greater than one-tenth the size of the tributary drainage area. It is suggested that the minimum depth of twenty-five percent (25%) of the permanent pool area be no less than eight (8) feet. Allowances for silting under denuded soil conditions (during construction) for a period no less than one year is also recommended.
 5. The entire fluctuating area of the permanent reservoir shall be seeded, fertilized and mulched, sodded or paved prior to release of surety if required by the Town. Any area susceptible to or designed as overflow by higher design intensity rainfall, as indicated previously, shall be sodded or paved.
- (p) *Parking Lots.* Detention is permitted in parking lots to maximum depth of 8 inches. In no case should the maximum limits of ponding be designed closer than ten (10) feet from a building unless water proofing of the building pedestrian accessibility is properly documented. The minimum freeboard from the maximum ponding elevation to the lowest sill elevation shall be one (1) foot.
- (q) *Other Methods.* Other methods of detention such as seepage pits, french drains, etc., are discouraged. If other methods are proposed, proper documentation of soils data, percolation, geological features, etc., will be needed for review and consideration. Infiltration controls (including grass-lined ditches) will be needed if the project runoff volume, for the set of 1 year, exceeds the pre-development runoff volume.
- (r) *Verification of Adequacy.* Analysis of all elements of design is always performed by the registered professional engineer. The following outline is provided to ascertain that certain critical elements of design are in workable compliance with the aims of design:
1. volume of retention for the total project.
 2. tributary (Q) peak runoff to basin.
 3. balanced maximum outflow rate from the low-flow structure.
 4. ratios of inflow to outflow.
 5. sizing of the overflow facilities.
 6. stability of dikes.
 7. safety features.
 8. maintenance features.

For projects up to 200 acres, routing calculations shall be submitted in legible tabulated form. Proof of adequacy of volume of retention and sizing computations for low-flow structures shall also be submitted. Features of stability and safety may also need to be documented if the scope of the project requires special attention in this area of design.

Projects over 200 acres in area shall provide documented verification of adequacy according to scope and complexity of design.

- (s) *Control Structures.* Detention facilities shall be provided with obvious and effective control structures. Plan view and sections of the structure with adequate detail shall be included in plans.
1. Sizing the low-flow discharge shall be the surface overflow rate method to provide trapping of sediment less than ten inches in size, or 90% of the suspended sediment load. At least three feet of standing water is to be provided in all ponds to allow permanent trapping of sediment.
 2. Low-flow pipes shall not be smaller than eight (8) inches in diameter to minimize maintenance and operating problems, except in parking lot and roof retention where minimum size of openings shall be designed specifically for each condition.
 3. The maximum overflow opening or emergency spillway shall be designed to accept the total peak runoff of the improved tributary area during the 100-year storm.
 4. Proper engineering judgment shall be exercised in analysis of secondary routing of discharge of greater intensity than the basic design storm in order to avoid economic losses or damage downstream. Review with the maximum probable precipitation event is recommended.
 5. When existing downstream pipe sizing, outside the developer's control jurisdiction, is inadequate, an evaluation for undersizing of pipes may be undertaken by the Town upon receipt of written request from the engineer specifying the run or runs desired to be undersized.
 6. Require hydrograph routing evaluation of entire system (such as using HydroCad) before allowing downstream undersizing.

§ 5.9.3 *Common Areas.*

- (a) *Maintenance Common Area.* All detention reservoirs with the exception of parking lot and roof detention shall be enclosed by a maintenance common area. The limits of the common area shall extend ten (10) feet beyond the maximum anticipated ponding area.
- (b) *Drainage Common Area.* A minimum fifteen (15) foot wide drainage common area shall be provided within the reservoir area connecting the tributary pipes and the discharge system along the best possible routing of a piping system for possible future elimination of detention.

§ 5.9.4 *Maintenance.*

Detention facilities, when mandatory, are to be built in conjunction with the storm sewer installation and/or grading. Since these facilities are intended to control increased runoff, they must be partially or fully operational soon after the clearing of the vegetation. Silt and debris connected with early construction shall be removed periodically from the detention area and control structure in order to maintain close to full storage capacity.

The responsibility for maintenance of the detention facilities in subdivision projects, if such has been required, shall remain with the developer until such time as applicable escrows, are released. Upon release of escrows the maintenance responsibility shall be vested in the Trustees of the subdivision, by virtue of the trust indenture. The indenture of trust shall clearly indicate resident responsibility for maintenance in cases of projects without common ground. These maintenance requirements do not imply that any drainage structures or systems are or will become the maintenance responsibility of [the] Town of Elberta. A letter from the owner/developer indicating responsibility for maintenance of all drainage structures or systems shall be submitted and will become part of the official record that will run with the land.

(Ord. of 8-20-2009)

ARTICLE 6. - INSTALLATION OF PERMANENT REFERENCE POINTS

Sec. 6.1. - Permanent reference points.

Prior to the approval of the Final Plat, permanent reference points shall have been placed in accordance with the following requirements:

§ 6.1.1 *Subdivision Corner Tie.*

At least one corner of the subdivision shall be designated by course and distance (tie) from an accepted corner of the U.S. Public Land Survey in Baldwin County, Alabama, lying within the same Section, Township, and Range. The subdivision corner shall be marked with a monument and shall appear on the map with a description of bearings and distance from the Government Survey corner, to an accuracy of 1:7,500.

§ 6.1.2 *Monuments.*

Concrete monuments four (4) inches in diameter or four (4) inches square and three (3) feet long with a flat top shall be set at a minimum of two exterior lot corners flush to the ground. The concrete monuments should be made in such a way that they can be found with an instrument able to detect metal objects. It is desired that the concrete monuments set are visible between one to the other and at opposite ends of the property along the same line nearest an open public right-of-way. The top of the monument shall be identified with a durable marker or cap bearing the Alabama License Number of the land surveyor or the company Certificate of Authorization Number. Elevations referenced to the North American Vertical Datum of 1988 (NAVD 88) shall be placed on top of each concrete monument and shown on the plat. A minimum of two vertical benchmarks shall be established on new development of 10 acres or less. Every additional ten acres require one vertical benchmark not less than 1,000 feet apart from another.

§ 6.1.3 *Property Markers.*

All lot corners not marked with a monument shall be marked with an iron pipe or iron pin not less than one-half (½) inch in diameter or in width, and eighteen (18) inches long, and driven so as to be flush with the finished grade. The top of the corner markers shall be identified with a durable marker or cap bearing the Alabama License Number of the land surveyor or the company Certificate of Authorization Number.

(Ord. of 8-20-2009)

Sec. 6.2. - Accuracy.

Land surveys of any tract of land to be subdivided as a "Major Subdivision," PUD, or any commercial development, shall be at an accuracy of no less than 1:10,000. Interior corners comprising the "Major Subdivision" shall be at an accuracy of no less than 1:7,500. Land surveys of any tract of land to be subdivided as a "Minor Subdivision" shall be at an accuracy of no less than 1:7,500. All other minimum requirements, not specifically mentioned, shall conform to the most current "STANDARDS OF PRACTICE FOR SURVEYING IN THE STATE OF ALABAMA." In the case of conflicting minimum requirements, the more stringent of the two rules shall apply.

(Ord. of 8-20-2009)

ARTICLE 7. - REQUIRED IMPROVEMENTS

Sec. 7.1. - Improvements.

Approval of the Final Plat shall be subject to the installation of the improvements and utilities hereinafter designated and satisfactorily completed in accordance with Town of Elberta construction specifications and standards, or the posting of a surety bond with sufficient surety to secure to the Town the actual construction and installation of such improvements and utilities.

§ 7.1.1 *Streets.*

On all streets and alleys within the jurisdiction of these regulations, an approved hard-surfaced permanent type of pavement shall be constructed in accordance with these regulations and Town of Elberta street construction specifications. All streets shall be graded. Finished grade, cross section, and profile shall be approved by the Town Engineer. All water, sewer or

other underground utilities shall be installed before the applicant shall construct curbs and gutters, where applicable, and [the applicant] shall base and surface or cause to be based and surfaced all pertinent streets to the width prescribed in these regulations.

§ 7.1.2 *Curbs and Gutters.*

Curbs and gutters/valley gutters are not mandatory, but may be placed, at the option of the Town Planning Commission, on both sides of new streets within the area of jurisdiction of these regulations in accordance with Town specifications. As an alternative for curbs and gutters, drainage ditches shall be constructed in accordance with the Town of Elberta specifications.

§ 7.1.3 *Sidewalks.*

Sidewalks shall be included within the dedicated non-pavement right-of-way of streets within the area of jurisdiction of these regulations. Construction of sidewalks shall be in accordance with Town specifications and these regulations, and shall include ramps for use by the handicapped and constructed prior to final plat approval.

§ 7.1.4 *Water System.*

Necessary action shall be taken by the applicant to extend the public/private water supply system capable of providing domestic water use and fire protection. The design and specifications of the water distribution systems shall meet the Town of Elberta public water system requirements. Water mains shall be a minimum of six (6) inches in diameter and shall be extended the full length or width of the pavement. If a well is required for each lot, the location, construction, and use of such a well shall meet Health Department specifications. All new or replacement water supply systems together with attendant facilities, proposed to be located within an area subject to flooding shall be designed and constructed to minimize or eliminate flood damage. Dead-end lines should terminate with either a fire hydrant or an approved flushing assembly.

§ 7.1.5 *Fire Plugs.*

Where public water is available, fire plugs shall be installed along each street every one thousand (1,000) feet, or at the ends and center of each block. The water supply and pressure shall be sufficient to adequately serve the potential needs of the intended land use as recommended in the current edition of the American Water Works Association (AWWA) standards.

§ 7.1.6 *Sanitary Sewers.*

The applicant shall install sanitary sewer facilities, when available, in a manner prescribed by the Town of Elberta construction standards and specifications. Individual disposal systems shall be used in instances where no public sanitary sewerage system is available, providing approval is received from the State and County Health Department.

§ 7.1.7 *Utilities.*

The applicant is encouraged to place all utilities underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the Preliminary Plat. It is recommended that utility easements, which are required for utilities (private and public) be placed on the front and/or side lot lines; such easements shall be at least fifteen (15) feet wide. Proper coordination shall be established between the applicant and the applicable utility companies for the establishment of utility easements. All new or replacement gas distribution systems and electrical distribution systems, together with attendant facilities, proposed to be located within an area subject to flooding, shall be designed and constructed to minimize or eliminate flood damage.

§ 7.1.8 *Street Signs.*

Proper signage in accordance with the latest edition of the "Manual of Uniform Traffic Control Devices" (MUTCD) as adopted by the ALDOT shall be installed prior to receiving Final Plat approval, and maintained in all subdivisions, until such time as roads are accepted for maintenance by the Town of Elberta. If roads are to remain in private ownership, the developer/owners shall be responsible for maintenance of signage within the subdivision and same shall be stated on the final plat. All proposed signage shall be shown and detailed on the Construction Plans.

§ 7.1.9 *Bridges.*

Bridges of primary benefit to the applicant, as determined by the Town Engineer, shall be constructed at the full expense of the applicant without reimbursement from the Town. The sharing of expense for the construction of bridges not of primary benefit to the applicant as determined by the Town Council will be fixed by special agreement between the Town Council and the applicant. Said cost shall be charged to the applicant pro rata as the percentage of land developed and so served. All bridges shall be designed and constructed in accordance with the current ALDOT Standard Specifications and Standard Drawings. The Town Engineer shall have the authority to approve or disapprove all bridge components and materials.

§ 7.1.10 *Widening and Realignment of Existing Roads.*

Where a subdivision borders an existing road with a right-of-way less than that specified in the regulations, the applicant shall be required to dedicate such additional areas for widening or realignment of such roads. Existing substandard roads shall be dedicated by the applicant to the full width as required by the subdivision regulations.

§ 7.1.11 *Bikeways.*

The Town Planning Commission may, at its discretion, require the installation of bikeways. Curb cuts and ramps shall be installed on streets where bikeways are required by these regulations. Bikeways shall be a minimum of four (4) feet in width and placed within the right-of-way on one side of the street. Construction shall be approved by the Town Engineer.

§ 7.1.12 *Oversized Facilities.*

The Town Commission may participate in the cost of oversized improvements within a subdivision, if, in its judgment, such oversized improvements are necessary to serve large areas of land not in the subdivision, and if the cost of such oversized improvements is an unreasonable burden on the applicant.

§ 7.1.13 *Drainage Common Areas.*

Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, there shall be provided a storm water common area or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction or both as will be adequate for the purpose. It is desirable that the drainage be piped whenever feasible.

- (a) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, common areas at least fifteen (15) feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Common Areas shall be indicated on the plat. Drainage common areas shall be carried from the road to a natural watercourse or to other drainage facilities.
- (b) When a proposed new drainage system will divert water into an unnatural water system or on private land adjacent to the subdivision, appropriate drainage rights must be secured by the applicant and indicated on the plat.
- (c) The applicant shall dedicate, either in fee or by drainage common areas, land on both sides of existing watercourses, to a distance to be determined by the Town Engineer.
- (d) Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainageways.

(Ord. of 8-20-2009)

ARTICLE 8. - GUARANTEE OF COMPLETION OF IMPROVEMENTS

Sec. 8.1. - Installation of required improvements.

The subdivider shall be responsible for the provision of all required improvements to the subdivision. This may be accomplished by either the full installation of all required improvements by the developer at the time the Final Plat is to be submitted to the Town Planning Commission, or by the provision of a financial guarantee of performance.

§ 8.1.1 *Subdivision Improvement Bond.*

The guarantee of performance by the subdivider shall be in the form of an acceptable surety and shall meet the following requirements:

- (a) *Acceptance of Surety.* The surety must be approved by the Town Council and the Town Attorney;
- (b) *Value of Surety.* The surety shall be of an amount equal to one hundred twenty-five (125) percent of the cost, as estimated by an independent source, of installing all improvements, including grading, paving of the streets, and installation of all required utilities, and fees encountered during execution of improvements.

§ 8.1.2 *Failure to Complete Work.*

If within twelve (12) months after filing said surety, the subdivider has not completed all necessary improvements or if, in the opinion of the Town Planning Commission, said improvements have not been satisfactorily installed, the bond shall be used by the Town to complete the improvements in satisfactory fashion, or the Town may take such steps as may be necessary to require performance under the bond.

(Ord. of 8-20-2009)

Sec. 8.2. - Inspection and certification of improvements.

The Design Engineer shall provide adequate inspection and supervision to certify that the project is constructed in accordance with the plans, specifications and Town of Elberta requirements. The Town Engineer shall perform periodic inspections for defects in the construction of the required improvements. The applicant shall pay to the Town the actual costs incurred for professional inspections of the required improvements. If additional inspections are required, additional fees (actual costs incurred) shall be required and the subdivision plat shall not be signed by the Chairman of the Town Planning Commission until all fees have been paid by the applicant. These fees shall be due and payable upon demand by the Town. If the Town Engineer finds upon inspection that any of the required improvements have not been constructed in accordance with the Town's construction standards and specifications, the applicant shall be responsible for completing the improvements. Wherever the cost of improvements is covered by a surety, the applicant and the surety company shall be severally and jointly liable for completing the improvements according to specifications.

Upon completion of the improvements, the applicant shall file with the Town Planning Commission a statement stipulating the following:

- (a) That all required improvements are complete;
- (b) That these improvements are in compliance with the minimum standards specified by the Town Planning Commission and the Town for their construction;
- (c) That the applicant knows of no defects from any cause in these improvements; and,
- (d) That these improvements are free and clear of any encumbrance or lien.
- (e) As-Built Drawings.

The applicant shall also file with the Town Commission an agreement dedicating said improvements to the Town.

Upon completion of these improvements, the Design Engineer shall file with the Town Commission a written statement that all improvements were installed in accordance with plans, specifications and Town of Elberta requirements as shown on the As-Built Drawings. Upon receipt of the statements and agreements detailed above, the Town may accept the dedication of these improvements. The Town may, at its discretion, accept the dedication of any portion of the required improvements, provided that all statements and agreements specified above have been received for that portion of the improvements.

(Ord. of 8-20-2009)

Sec. 8.3. - Reduction of guarantee.

In those cases, where an improvement guarantee has been made under subsection 8.1.1 of these regulations, the amount of the surety may be reduced upon acceptance, in compliance with these regulations, of the dedication of a portion of the required improvements. A surety shall be reduced upon actual dedication of public improvements and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat. In no event shall a surety be reduced below twenty-five percent (25%) of the principal amount.

Sec. 8.4. - Release of guarantee.

Upon acceptance, in accordance with these regulations of the dedication of the final portion of improvements, the Town Commission shall authorize the release of the remaining portion of the improvement guarantee.

Sec. 8.5. - Maintenance of improvements.

The applicant shall be required to file a maintenance surety with the Town Council prior to dedication in an amount considered adequate by the Town Engineer and in a form satisfactory to the Town Attorney, in order to assure the satisfactory condition of the required improvements for a period of two (2) years after the date of their acceptance by the Town Council and dedication of same to the Town.

(Ord. of 8-20-2009)

ARTICLE 9. - VARIANCES

Sec. 9.1. - General.

Where the Town Planning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations. Any application for a variance shall first be submitted to the Town Engineer for recommendation to the Town Planning Commission except in the case of requests for exemption from the subdivision regulations. An application for a variance shall be submitted in writing by the applicant at the time when the Preliminary Plat is filed for the consideration of the Town Planning Commission. The application shall state fully the grounds for the variance and all of the facts relied upon by the applicant. The variance, if approved by the Town Planning Commission shall become part of the official record of the Town Planning Commission and shall be noted on the Final Plat. The Town Planning Commission shall not approve a variance unless it shall make findings based upon the evidence presented to it in each specific case that:

- (a) The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property;
- (b) The condition upon which the request for a variance is based is unique to the property for which the variance is sought and [is] not applicable generally to other property;
- (c) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out;
- (d) Owners of land who deed property to a descendent or next of kin, shall be exempt from these regulations; however, descendants must comply with all regulations, if further land subdivision is undertaken by them;

(e) The variance will not in any manner vary the provisions of other adopted policies and regulations of [the] Town of Elbe

(Ord. of 8-20-2009)

Sec. 9.2. - Conditions.

In approving variances, the Town Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives, standards or requirements of these regulations.

The Town Planning Commission shall not grant any variance within the Floodway District unless the developer submits a study prepared by a registered professional engineer certifying that no increase in the 100-year flood level would result from the proposed development.

Within other areas subject to flooding, variances shall only be issued upon a determination by the Town Planning Commission that the relief granted is the minimum necessary considering the flood hazard.

Sec. 9.3. - Experimental subdivisions.

The Town Planning Commission may waive, vary, or modify the standards and requirements of these regulations, if in its judgment an unusual or experimental subdivision might prove of considerable merit toward:

- (a) The use of unusual materials in constructing required improvements;
- (b) A new or untried design concept in the Town of Elberta area which appears promising.

Special attention may be given to experimental subdivisions which are related to low-cost housing design or energy conservation. The Town Planning Commission shall require the applicant to provide a written proposal stating the nature of the experiment and cost-benefit study following the implementation of same.

§ 9.3.3 *Conditions.*

In granting variances, modifications, and approval for experimental subdivisions, the Town Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied, modified, or approved. These may include, without being limited to: personal, surety, performance, or maintenance bonds, affidavits, covenants, or other legal instruments.

Sec. 9.4. - Special requirements for nonresidential subdivisions.

§ 9.4.1 *General Procedural Requirements.*

It is recognized that the applicant, in creating nonresidential subdivisions, faces unique problems of lot design not normally encountered in residential subdivisions. For this reason, the initial emphasis of the Town Planning Commission shall be upon street layout and block arrangement. Generally, the procedural requirements shall be for the applicant to follow the regular procedure outlined in [Article 4](#) and to show the entire tract to be subdivided with necessary improvements and as many parcels as he cares to show but must include at least two parcels. Then, from time to time, as prospective buyers express interest in lots sized to their required specifications, and following informal discussions with the Town Planning Commission if the applicant so requests, the applicant shall submit directly at a regular meeting of the Town Planning Commission an amendment to the preliminary plat for approval. Regular procedural requirements of the Town Planning Commission following receipt of a Final Plat shall then apply.

§ 9.4.2 *Other Special Requirements.*

In addition to the principles and standards in these regulations which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Town Planning Commission that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

- (a) Proposed nonresidential street layout, blocks, and parcels shall be suitable in area and dimensions to the types c anticipated.
- (b) Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas, nor connected to streets intended for predominantly residential traffic, but shall be connected insofar as is possible to expressways, arterial, or collector streets in such a way that the number of intersections with such expressways, arterial, or collector [streets] shall be minimized.
- (c) Street rights-of-way and pavement shall be adequate and in accordance with Section 5.4 to accommodate the type and volume of traffic anticipated to be generated thereon. Curb radii at driveway intersections shall be at least 25 feet.
- (d) The applicant shall ensure that the nonresidential subdivision as a whole may be self-sufficient with regard to providing necessary off-street parking. The applicant may make parking self-sufficiency a requirement of individual lots.
- (e) With respect to physical improvements, special requirements may be imposed by the Town Planning Commission with the advice of the Town Engineer within the nonresidential subdivision.
- (f) Every effort shall be made to protect adjacent residential areas from potential nuisances from nonresidential subdivisions, including the provision of extra depth in parcels backing up on existing or potential residential developments and [the] provision for a permanently landscaped buffer strip when necessary.

ARTICLE 10. - PLANNED UNIT DEVELOPMENTS (APPLICABLE ONLY TO UNZONED PROPERTIES)

Sec. 10.1. - Purposes and objectives.

§ 10.1.1 *Purposes.*

Under these Subdivision Regulations for various developments, a separate building site is required for each building other than an accessory building. For the purpose of allowing and encouraging variety of design and flexibility of location for buildings comprising a planned unit development under these Subdivision Regulations, the requirement for a separate building site for each building is waived and the land occupied by the planned unit development is considered to be the building site for the group of buildings as a whole.

It is the further purpose of this section to allow the unified development of tracts of land that are suitable in size, location, and character for the uses and buildings proposed. To that end, the application of the development regulations governing development on a lot-by-lot basis is modified for planned unit developments, hereinafter called PUDs that meet the objectives and conform to the standards of this section.

§ 10.1.2 *Objectives.*

In pursuit of these purposes, the objectives to be met by a PUD are as follows:

- (a) *Creative Design.* To allow innovative and diversified design in building form and site development;
- (b) *Flexibility.* To permit flexibility in the location and arrangement of buildings;
- (c) *Efficient Land Use.* To encourage the most efficient and economical use of land, especially tracts in the Town that remain undeveloped or that are appropriate for redevelopment;
- (d) *Environment.* To preserve and protect as urban amenities the natural features and characteristics of the land;
- (e) *Open Space.* To encourage the provision of common open space through efficient site design;
- (f) *Public Services.* To encourage the optimum use of available public utilities, streets and community facilities.

Sec. 10.2. - Modifications and limitations.

§ 10.2.1 *Modifications of Development Regulations.*

The provisions of these regulations are applicable to all developments. The regulations of the development in which the PUD is located shall apply to the PUD with the following modifications:

- (a) *Permitted Uses.* A PUD shall contain only such uses as are permitted in the development schedule in Section 10.5 of these regulations.
- (b) *Residential Building Types.* In an A-1 development, each townhouse, row house, or similar building type contained in a PUD shall meet the building site area requirements of the A-1 development for a zero-lot-line dwelling.

In an A-2/A-3 development, townhouses, row houses, or similar building types (attached dwellings) contained in a PUD shall be considered to be duplex/multi-family dwellings and shall meet the building site area requirements of the A-2/A-3 development for duplex/multi-family dwellings.

In the case of a PUD which has also been approved by the Planning Commission under the subdivision regulations, part of the required building site area for each unit may be provided in common open space and minimum yards may be varied from those required in the development area in which the PUD is located (See Development Schedule, Section 10.5).
- (c) *Building Site Area.* In a PUD, building site area per dwelling unit may be reduced not to exceed 20% where common open space, by its location, character, and intended use, justifies such reduction.
- (d) *Yards Required.* Yard requirements of an A-1/A-2/A-3 development in which the PUD is located shall apply to the PUD as a whole rather than to individual buildings. (See Development schedule, Section 10.5).

§ 10.2.2 *Limitations.*

Planned Unit Developments shall be subject to the following limitations:

- (a) *Size of Tract.* The tract of land to be occupied by the PUD shall be of sufficient size to accommodate the proposed uses and buildings in a homogeneous and harmonious entity (as distinguished from typical lot-by-lot development).
- (b) *Public Services.* No PUD shall be approved unless the Planning Commission determines, upon written approval of the appropriate authorities, that adequate public services are provided.

(Ord. of 8-20-2009)

Sec. 10.3. - Locational and design standards.

§ 10.3.1 *Locational Standards.*

A PUD shall meet the following locational standards:

- (a) *Transportation Facilities.* The tract should be so located to have access to public rights-of-way without generating excessive traffic through residential streets outside the PUD.
- (b) *Environment.* The tract shall be suitable for development of the proposed uses and buildings with respect to the nature of the soils and topography. Natural features of the site, such as trees, waterways, sand dunes, wetlands, scenic and historic spots and the like, shall be preserved and protected.

§ 10.3.2 *Design Standards.*

A PUD shall meet the following design standards:

- (a) *Circulation.* The internal traffic circulation system shall be so designed as to discourage traffic congestion both within and outside the site. Vehicular access points shall be designed to permit smooth traffic flow with

controlled turning movements and minimum hazard to vehicular and pedestrian traffic. The pedestrian circulation system shall be designed to separate as completely as possible pedestrian and vehicular movement, especially in respect to the safety of pedestrian movement between dwelling units and common open space or recreation areas.

- (b) *Building Spacing and Access.* In an A-3 PUD, the following spacing between buildings shall be measured between exterior walls. It does not apply to corner-to-corner placement of buildings where walls do not overlap:
1. *Spacing of Buildings.* A building shall be located no closer to another building than a distance equal to the height of the taller building of the two; provided, however, that for a two-story building, such distance shall not be less than 30 feet in the case of two walls having windows, 20 feet in the case of one wall having windows and the other no windows, and 18 feet in the case of two walls having no windows. Provided, further, that for buildings of more than two stories, spacing shall be increased proportionately. Variations from these spacing requirements may be made by the Planning Commission upon a showing that the arrangement of buildings is such that the orientation ensures adequate light and air, avoids undue exposure to trafficways and preserves visual and auditory privacy between buildings.
 2. *Access to Emergency Vehicles.* The buildings in any PUD shall be so arranged that every building is accessible to emergency vehicles.
- (c) *Common Open Space.* In an A-3 PUD, at least 500 square feet of useable land for each dwelling unit shall be in common open space. Common open space may contain walks, terraces, pools, natural drainage areas, and the like, but shall exclude streets, whether public or private, improved drainageways, parking areas, and the land covered by buildings (except that roof areas developed for recreational use shall be considered to be common open space); provided, however, that townhouses, row houses, and similar building types with contiguous walls, in lieu of common open space, there may be provided the same amount of private open space for each dwelling unit.

(Ord. of 8-20-2009)

Sec. 10.4. - Review procedures.

§ 10.4.1 *Pre-application Conference.*

Prior to the filing of an application for approval of a Preliminary Development Plan, a pre-application conference should be held with the Planning Staff. However, the Planning Staff may waive the pre-application conference on written request by the applicant. The purpose of the conference is to consider informally the concept of the proposed PUD, its relation to the area in which the site is located, and the way in which it will meet the objectives of this section.

The Planning Staff shall be responsible for arranging the pre-application conference, which may be attended by at least one member of the Planning Commission. He may invite the attendance of department or agency heads or administration officials having an interest in the different aspects of the PUD.

No specific documents are required for the pre-application conference, but the applicant shall be responsible for providing sufficient information on which to base tentative conclusions as to the appropriateness and feasibility of the proposed PUD under the provisions of these regulations. Following the pre-application conference, the Planning Staff shall furnish the applicant with written comments, including recommendations, to inform and assist him in preparing a Preliminary Development Plan.

At his option, and providing a public hearing is not required, the applicant may proceed to the Final Development Plan stage. In that case, the submission shall meet all the requirements for [the] Preliminary Development Plan in addition to those for a Final Development Plan.

§ 10.4.2 *Preliminary Development Plan.*

On the basis of the pre-application conference and such further consultation as may have been held between the applicant and the Planning Staff and interested department or agency heads or officials, application for approval of a Preliminary Development Plan may be made. A PUD may be constructed in stages, but the Preliminary Development Plan shall include the entire tract of land.

The Planning Staff may assist the applicant in preparation of a Preliminary Development Plan by furnishing such information on land use, soil conditions, adjacent development and other pertinent matters as is available in the records and files of the Planning Commission. Where appropriate, the Planning Staff shall advise the applicant to consult with those officials and agencies whose approval or advice and recommendation to the Planning Commission will be necessary.

- (a) **Written Documentation Required.** The application shall contain the following documentation:
1. *Interest and Ownership.* The applicant's name, address, and interest in the application, and the name, address, and interest of every person represented by the applicant in the application; and the name and address of the owner or owners of the entire land area to be included within the proposed PUD, of all buildings then existing thereon, and all encumbrances of such land and buildings, and sufficient evidence to establish that the applicant and owner have the right of possession to the land area and buildings.
 2. *Statement of Planning Objectives and Market Information.* A statement of the way in which the proposed PUD will achieve the objectives set out in these regulations, including a description of its character; its relation to the area in which it is located; a development schedule indicating the approximate dates when construction of the PUD (or stages of construction) can be expected to be begun and completed; a statement as to whether the PUD will be held in one ownership (individual, partnership, corporation, or other) or subdivided and sold in individual parcels of land with [a] dwelling unit or units or other buildings; [and] a statement of the economic feasibility or a market analysis as appropriate to the size and nature of the PUD.
 3. *Quantitative Data.* The tract size, building site coverage, the number and type of dwelling units, the gross and net building site area per dwelling unit (density), nonresidential uses, if any, that are proposed, and the amount of common open space to be provided (in accordance with the Design Standards of these regulations).
 4. *Agreements and Covenants.* A statement of the provisions of any agreements or covenants proposed to govern the use, maintenance and continued protection of the PUD and its common open space.
 5. *Owners of Adjacent Property.* A public hearing is required for Preliminary and Final PUD approval. A list of the names and mailing addresses of the adjacent property owners is required to accompany the application. Names and addresses shall be from the Town of Elberta tax rolls.
- (b) *Site Plan and Supportive Data.* The application shall contain the following site plan and supporting data:
1. *Existing Site Conditions.* The dimensions of site, contours at two-foot intervals, the location and dimensions of easements and rights-of-way, watercourses, flood plains, soil conditions and natural features of the site, existing land uses within the site, and any additional information necessary to indicate existing conditions that affect the proposed development.
 2. *Site Plan.* The site plan, showing the area to be occupied and its approximate dimensions, the general layout of buildings and other improvements, the vehicular circulation, including parking and loading areas, the pedestrian circulation system, the areas to be conveyed, dedicated or reserved as common open spaces, public parks, recreational areas, school sites and similar public and semi-public uses, the general landscape plan showing proposed planting and other landscape features, and the proposed perimeter treatment of the site.
 3. *Utility Systems.* Existing and proposed utility systems, including water supply, sanitary sewerage, storm drainage, and electric, gas and telephone lines. (Detailed engineering plans are not required at this stage.)
- (c) *Public Hearing.* For PUD approval, a public hearing is required.
1. The applicant shall submit a written application, along with the necessary documents and information to

the Planning Commission office at least fifteen (15) days prior to the public hearing.

2. The Planning Commission shall maintain in its Minutes a record of its proceedings in the case showing the grounds of its approval or disapproval. The record shall be filed in the office of the Commission and shall be a public record.
- (d) *Action on Preliminary Development Plan.* At the public hearing, the Planning Commission shall approve, approve with modifications and/or conditions, or disapprove the Preliminary Development Plan. If approval of the Preliminary Development Plan stipulates modifications or conditions, such modifications or conditions shall be agreed to in writing by the applicant before a Final Development Plan is submitted for approval.

Approval of a Preliminary Development Plan shall expire one year from the date of approval if application for approval of a Final Development Plan has not been submitted or extension of such one-year period granted by the Commission.

§ 10.4.3 *Final Development Plan.*

On the basis of the Preliminary Development Plan, including such modifications and/or conditions as may be stipulated in the approval, application for approval of a Final Development Plan may be made. Such application, along with the necessary documents and information, must be submitted to the Planning Commission office at least fifteen (15) days prior to the public hearing.

- (a) *Documentation Required.* The application shall contain the following documentation:
1. *Written Documentation.* Items a, c, [and] d of the Written Documentation required for an application for approval of a Preliminary Development plan, such documentation to be in final form.
 2. *Site Plan and Supportive Data.* Items b and c, of the Site Plan and Supporting Data required for an application for the approval of a Preliminary Development plan, such documentation to be in final form.
 3. *Conveyances and Covenants.* Conveyances to Town of Elberta of areas intended for public use. If a PUD is also a land subdivision (to be in multiple ownership) the covenants or other legal instruments setting forth the plan or manner of permanent care and maintenance of common open space, recreation areas and other communal facilities. Conveyances shall be held in escrow and returned to the applicant if the Final Development is disapproved.
- (b) *Action on Final Development Plan.* At the public hearing the Planning Commission shall approve, approve with modifications and/or conditions, or disapprove the Final Development Plan. If approval of the Final Development Plan stipulates modifications or conditions, such modifications or conditions shall be made to, or stipulated in, the Final Development Plan prior to its filing.

A Final Development Plan shall be deemed to be in compliance with an approved Preliminary Development Plan, including any modifications and/or conditions of such approval, if only minor deviations have been made and if such deviations do not contravene the stated objectives or violate the design standards of these regulations.

In approving a Final Development Plan, the Planning Commission may specify the dates by which construction of the PUD shall be begun and completed. If the PUD is proposed to be constructed in stages, the dates for beginning and completing each stage shall be specified. If the applicant does not begin and complete the construction by the dates specified, the Planning Commission shall review the case and may: (1) upon showing of good cause by the applicant, extend the time limits, (2) revoke the approval, or (3) amend the PUD.

- (c) *Changes in the Final Development Plan.* Minor changes in the location and siting of buildings and improvements may be authorized by the Planning Commission if required by engineering or other circumstances not foreseen at the time the Final Development Plan was approved; provided, however, that no change shall be authorized which may substantially alter the use and character of the development, reduce the amount of common space, or reduce the building site area per dwelling unit (increase the density). The minor design revisions shall also be approved by the Planning Commission.

Substantive changes in the final development shall be considered to be amendments to the plan and shall be subject to the same procedures specified for approval of a Preliminary Development Plan and a Final Development Plan.

- (d) *Authority of the Planning Commission.* The Final Development Plan, with attendant documentation, shall thereafter be binding upon the owner, his heirs, successors and assigns, shall limit and control the issuance and validity of permits and certificates and shall restrict and limit the use and operation of all land and structures within the PUD to all conditions and limitations specified in such plan and approval thereof.

The Planning Commission will have the authority and power to amend and/or waive any of the requirements set out in these Subdivision Regulations.

(Ord. of 8-20-2009)

Sec. 10.5. - Development schedule.

DEVELOPMENT OF SITE AREA	MHP	A-1	A-2	A-3
Minimum Lot Area in Square Feet	8,000*	4,000	7,500	—
Minimum Land Area Per Unit in Square Feet	—	—	—	2,100
Minimum Lot Width at Setback Line	50	40	50	—
Maximum Lot Coverage by Percentage	50	50	45	45
Minimum Yard Setbacks in Feet (Front/Side/Rear)	10/**/10	10/**/20	25/5/20	25/8/10
Maximum Height in Feet	35	35	35	—
Maximum Number of Stories	2½	2½	3½	—
Required Parking Spaces for Each Dwelling Unit	2	2	1½	1½
Minimum Acreage Required	3	5	6	7
* Or as required by Health Department (See (2) on page 26)				
** Ten feet shall be required on one side and zero on the other.				

(Ord. of 8-20-2009)

Sec. 10.6. - Off-street parking requirements.

MINIMUM STALL AND AISLE DIMENSIONS

Angle of Parking	Direction of Parking	Width of Stall	Depth of Perpendicular to Aisle	Width of Aisle	Unit Parking Depth	Width of Stall Parallel to Aisle	Number of Stalls in Distance	Area per car (sq. ft.)
30	Drive in	8'	15.9'	11'	42.8'	16'	L-3.6/16	356
45	Drive in	8'	18.4'	12'	48.8'	11.3'	L-7.1/11.3	305
60	Drive in	8'	19.6'	19'	58.2'	9.3'	L-6.7/9.7	325
90	Drive in	8'	18'	28'—32'	64'—68'	8'	L/8	283
90	Back in	8'	18'	22'	58'	8'	L/8	242
30	Drive in	8'6"	16.4'	10'	42.8'	17'	L-2.8/17	428
45	Drive in	8'6"	18.7'	11'	48.4'	12'	L-6.7/12	346
60	Drive in	8'6"	19.8'	18'	57.6'	9.8'	L-6.6/9.8	320
90	Drive in	8'6"	18'	25'—29'	61'—65'	8.5'	L/8.5	296
90	Back in	8'6"	18'	21'	57'	8.5'	L/8.5	259
30	Drive in	9'	16.8'	9'	42.6'	18'	L-2.5/18	426
45	Drive in	9'	19.1'	11'	49.2'	12.7'	L-6.4/12.7	352
60	Drive in	9'	20'	17'	57'	10.4'	L-6.4/10.4	317
90	Drive in	9'	18'	23'—27'	59'—63'	9'	L/9	286
90	Back in	9'	18'	20'	56'	9'	L/9	255

(Ord. of 8-20-2009)

ARTICLE 11. - CONFLICT WITH PUBLIC AND PRIVATE PROVISIONS

Sec. 11.1. - Public provisions.

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provision is more restrictive or imposes higher standards shall control.

Sec. 11.2. - Private provisions.

These regulations are not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Town Planning Commission in approving a subdivision or in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder.

ARTICLE 12. - LEGAL PROVISIONS

Sec. 12.1. - Severability.

If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Town Commission hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

Sec. 12.2. - Saving provision.

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the Town under any section or provision existing at the time of adopting of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the Town except as shall be expressly provided in these regulations.

ARTICLE 13. - AMENDING REGULATIONS

Sec. 13.1. - Amendment procedure.

For the purpose of providing for the public health, safety and general welfare, the Town Planning Commission may from time to time amend the provisions imposed by these regulations. Any article, section, subsection, or provision of these Subdivision Regulations proposed for amendment shall be subject to a public hearing. Said public hearing shall be advertised a minimum of fifteen (15) days prior to the date of the hearing. Notice of the public hearing shall be published in a newspaper of general circulation published in the Town or posted in four (4) public places, one of which shall be at the Town Municipal Offices and shall contain the time, place and description of the proposed amendment. Following its adoption, the amendment shall be published as provided by law for the publication of ordinances. A copy of the amendment shall be certified by the Town Commission to the Probate Judge of Baldwin County.

(Ord. of 8-20-2009)

ARTICLE 14. - ADMINISTRATION AND ENFORCEMENT

Sec. 14.1. - General.

Regulation of the subdivision of land and the attachment of reasonable conditions to the development of land is an exercise of valid police power delegated by the State to the Town of Elberta. The developer has the duty of compliance with reasonable conditions laid down by the Town Planning Commission for design, dedication, and improvement of the land so as to conform to the physical and economical development of the unincorporated areas of the Town Planning Jurisdiction and to the safety and general welfare of future property owners.

Sec. 14.2. - Administration.

The Town's Planning and Zoning Administrator is herein appointed by the Town of Elberta Planning Commission to act as their authorized agent in the interpretation and enforcement of the plans, specifications and requirements of these regulations. The Town's Planning and Zoning Administrator, or his/her authorized agent or designee, shall determine the amount, quality, and acceptability of the work as specified in these regulations.

(Ord. of 8-20-2009)

Sec. 14.3. - Enforcement.

§ 14.3.1 *General.*

It shall be the duty of the Town's Planning and Zoning Administrator or Town Building Official to enforce these regulations and to bring to the attention of the Town of Elberta Attorney any violations or lack of compliance with these regulations.

§ 14.3.2 *Violations.*

No owners, or agent of the owner, of any lot located within a subdivision or development may transfer or sell any land by reference to or exhibition of or by other use of a plat of a subdivision or development before such plat has been approved by the Town Planning Commission and recorded with or filed with the County Probate Judge. The description of such a lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from any penalties or remedies herein prescribed.

§ 14.3.3 *Penalties.*

Conviction under Subsection 14.3.2 of these regulations shall result in forfeiture and payment of a penalty of one hundred dollars (\$100.00) for each lot or parcel subdivided or developed. The Town Commission may also institute an injunction against such development or sale in any court of equity jurisdiction, or may recover the same penalty through civil action in any court pursuant to authority granted by the Code of Alabama. Further, no streets will be accepted for maintenance by the Town nor shall any utilities be extended to any subdivision found in violation of these regulations.

(Ord. of 8-20-2009)

ARTICLE 15. - EFFECTIVE DATE

Sec. 15.1. - Adoption by the Town of Elberta Planning and Zoning Commission.

These Subdivision Regulations were approved on July 15, 1998, and adopted by the Town of Elberta Planning and Zoning Commission on August 19, 1998. They shall take effect and be in force from and after the date of adoption.

APPENDIX I. - OFFICIAL FORMS

TOWN OF ELBERTA PLANNING COMMISSION
SUBDIVISION REGULATIONS
PROCEDURES FOR PLAT APPROVAL

- (a) Minor subdivisions (four (4) lots or less fronting on an existing street, and not involving any public improvements or adverse the remainder of the parcel or adjoining property).
1. Sketch Plan Review - Step One (Section 4.3):
 - Ten prints (10) and one (1) 11 x 17 copy (all neatly folded).
 - Ten (10) business days prior to the Town of Elberta Planning Commission meeting (the Planning Commission meets regularly on the third (3rd) Thursday of each month).
 - No application for or fees required.
 2. Preliminary/Final Plan Review - Step One (Sections 4.4 and 4.5):
 - Ten (10) prints and One (1) 11 x 17 copy (all neatly folded) along with a PDF file on CD. Power point presentation system available for applicant if desired. With all required statements and signatures.
 - Thirty (30) days prior to the Town of Elberta Commission meeting (the Planning Commission meets regularly on the third (3rd) Thursday of each month).
 - Adjacent property owners and their addresses listed.
 - Filing and Hearing fee - \$300.00 plus actual costs of professional review of plans or professional inspections and publications or notifications regarding the subdivision (applicant to be billed by the Planning and Zoning Department).
- (b) Major Subdivisions (all others not classified as minor subdivisions).
1. Sketch Plan Review - Step One (Section 4.3):
 - Ten (10) prints and One (1) 11 x 17 copy (all neatly folded).
 - Ten (10) Business days prior to [the] Town of Elberta County Planning Commission meeting (the Planning Commission meets regularly on the third (3rd) Thursday of each month).
 - No application for or fees required
 2. Preliminary Plat Review - Step One (Section 4.4):
 - Ten (10) prints and One (1) 11 x 17 (all neatly folded) copy along with a PDF file on CD. Power point presentation system available for applicant if desired. With all required preliminary plat information.
 - Thirty (30) days prior to the Town of Elberta Planning Commission meeting (the Planning Commission meets regularly on the third (3rd) Thursday of each month).
 - Adjacent property owners and their addresses listed.
 - Filing and Hearing fee - \$300.00 plus actual costs of professional review of plans or professional inspections and publications or notifications regarding the subdivision (applicant to be billed by the Planning and Zoning Department).
 3. Final Plat Review - Step Two (Section 4.5):
 - Ten (10) prints and One (1) 11 x 17 (all neatly folded) copy along with a PDF file on CD. Power point presentation system available for applicant if desired.
 - With all required statements and signatures.
 - Fifteen (15) business days prior to the Town of Elberta Planning Commission meeting (the Planning Commission meets regularly on the third (3rd) Thursday of each month).
 - Adjoining subdivisions and streets as recorded.
 - Within two (2) years of preliminary plat approval.
 - If required improvements are complete, [a] signed statement to that effect and Filing fee of \$150.00 plus actual costs of professional inspections (to be billed by [the] Planning and Zoning Department).
 - If required improvements are not complete, [a] Surety Bond or other guarantee of construction of improvements.
 - Copies of Federal and State permits, if required.
- (c) Appropriate application forms, checklists and other required documentation must be completed and submitted with the

plat.

TOWN OF ELBERTA PLANNING COMMISSION
APPLICATION FOR PRELIMINARY SUBDIVISION PLAT (PUD) APPROVAL

Application Number ____ Date _____ / _____ / _____

Name of Subdivision (PUD) ____

Name of Applicant/Owner ____

Address ____

(Street or P.O. Box) (City) (State) (Zip)

Name of Local Agent/Engineer, if other than Applicant ____

Phone ____

Address ____

(Street or P.O. Box) (City) (State) (Zip)

Subdivision (PUD) Location ____

Total Acreage ____ Number of Lots (Units) ____ Average Lot Size ____

Water Source ____

Sewer Source ____

Date of Sketch Review ____

Owners of Land 100 feet Adjacent or Opposite: (Use back of page if more space is required).

Name	Address
1. ____	____
2. ____	____
3. ____	____
4. ____	____
5. ____	____

Attached is a check in the amount of \$300.00 for a filing and hearing fee. Actual costs for notifications or publications and professional plan review and inspections to be billed by the Planning and Zoning Department. TOTAL \$ _____

Signed ____	
(Name of Applicant or Agent)	

(Ord. of 8-20-2009)

TOWN OF ELBERTA PLANNING COMMISSION
PRELIMINARY PLAT CHECKLIST

Subdivision Name _____ Number _____ Date _____

- 1. - Ten (10) copies and One (1) 11 x 17 copy (all neatly folded) along with a PDF file on CD of plat submitted 30 days prior to meeting
- 2. - Application forms completed
- 3. - Fees paid
- 4. - _____ Minor Subdivision OR 5. _____ Major Subdivision
- 6. - Names and addresses of adjoining landowners within 100 feet
- 7. - Public Hearing notices sent
- 8. - Construction Plans submitted
- 9. - Review by Health Department
- 10. - Review by County Engineer
- 11. - All requirements shown on plat
 - a. - Scale not less than 1" = 100'
 - b. - Sheet size not more than 24" x 36"
 - c. - Name of owner(s) of record
 - d. - Proposed name of subdivision
 - e. - Date, North Arrow
 - f. - Legal Description
 - g. - Vicinity Map
 - h. - Topography at two-foot contour intervals
 - i. - Exact boundaries showing bearings and distances
 - j. - Wooded areas, marshes, other unique features shown
 - k. - Location of existing streets, watercourses, railroads, major transmission lines, drainage structures and public utility easements on proposed subdivision and on adjacent land within 100 feet
 - l. - Proposed ROW and/or easements including location, purpose, widths and street names
 - m. - Proposed lot lines with bearings and distances and lot and block numbers
 - n. - Proposed minimum building setback lines
 - o. - Proposed open spaces, school sites or other public or common areas
 - p. - Site data including total acreage, smallest lot size, total number of lots and linear footage of streets
 - q. - Flood Hazard Zone notation

(Ord. of 8-20-2009)

TOWN OF ELBERTA PLANNING COMMISSION
APPLICATION FOR FINAL SUBDIVISION PLAT (PUD) APPROVAL

Application Number _____ Date _____ / _____ / _____

Name of Subdivision (PUD) _____

Name of Applicant/Owner _____

Address _____

(Street or P.O. Box) (City) (State) (Zip)

Name of Local Agent/Engineer, if other than Applicant _____

Phone _____

Address _____

(Street or P.O. Box) (City) (State) (Zip)

Subdivision (PUD) Location _____

Total Acreage _____ Number of Lots (Units) _____ Average Lot Size _____

Water Source _____

Sewer Source _____

Date of Approval of Preliminary Plat _____

Conditions, Restrictions or Other Requirements Placed on Preliminary Plat (Use back of page if more space is required) _____

Attached is a check in the amount of \$150.00 for a filing fee. The actual costs for professional plan review and inspections to be billed by the Planning and Zoning Department.

TOTAL \$ _____

(Ord. of 8-20-2009)

TOWN OF ELBERTA PLANNING COMMISSION
FINAL PLAT CHECKLIST

Subdivision Name _____ Number _____ Date _____

1. _____ One (1) clear, reproducible mylar or linen plat with required documentation and signatures and ten (10) copies, one (1) 11 x 17 copy (all neatly folded) along with PDF file on CD of same submitted 15 business days prior to meeting.
2. _____ Application forms completed
3. _____ Fees paid.
4. _____ Within two (2) years of preliminary plat approval.
5. _____ Surety bond, if required, to guarantee installation of improvements.
6. _____ All requirements shown on plat:
 - a. _____ Scale not less than 1" = 100'
 - b. _____ Sheet size not more than 24" x 36"
 - c. _____ Name, north arrow, scale, location
 - d. _____ Legal description
 - e. _____ Adjoining subdivisions and street with reference to recorded plats by record name.
 - f. _____ Permanent monuments, boundaries, bearings, distances
 - g. _____ Streets, alleys, rights-of-way and street names
 - h. _____ Location, widths and purposed of all easements

- i. _____ Lot lines and lot and block numbers
- j. _____ Parks, school sites or other public open spaces, if any
- k. _____ Topography or elevations as required
- l. _____ Endorsements, dedications and certificates:

_____ Owner

_____ Registered Surveyor

_____ Notary Public

_____ Electric utility

_____ Water utility

_____ Sewer utility

_____ Health Department

_____ Coastal Area Management Program (if applicable)

_____ Town of Elberta Public Works Dept.

_____ Town of Elberta Planning Commission

_____ Flood Hazard Zone notation

_____ Developer's Engineer

(Ord. of 8-20-2009)

DEDICATION

I/We (land owner or developer, address), as proprietor(s), have caused the land embraced in the within plat to be surveyed, laid out and platted to be known as (Subdivision Name or Planned Unit Development), a part of (Section Call Out), Baldwin County, Alabama, and that the (Streets, Drives, Alleys, Easements, etc.) as shown on said plat are hereby dedicated to the use of the public.

Signed and sealed in the presence of:

_____ Witness	_____ Property Owner
_____ Witness	_____ Property Owner

In any case that the developer and the land owner are not one and the same, two or more Dedication Certificates may appear on the plat in order to allow for the owner's signature to be fixed to said Plat, in which case one of the following notary's acknowledgements must appear for each Dedication Certificate.

ACKNOWLEDGMENT

STATE OF ALABAMA

COUNTY OF BALDWIN

I, _____ Notary Public in and for said County, in said State, hereby certify that (individual's name), whose name as (title) of the (corporation name), is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the content of the instrument, and as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

GIVEN under my hand and official seal this _____ day of _____ / _____ / _____, 20 _____ .

NOTARY PUBLIC

ACKNOWLEDGMENT

STATE OF ALABAMA

COUNTY OF BALDWIN

I, _____, Notary Public in and for said County, in said State, hereby certify that (owner's name), whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, executed the same voluntarily for and as the act of said corporation.

GIVEN under my hand and official seal this _____ day of _____ / _____ / _____, 20 _____ .

NOTARY PUBLIC

(Ord. of 8-20-2009)

SURVEYOR'S CERTIFICATE AND DESCRIPTION OF LAND PLATTED

STATE OF ALABAMA

COUNTY OF BALDWIN

I, (name of surveyor), a licensed Surveyor of _____ County, Alabama, hereby certify that I have surveyed the property of the (name of company or proprietor), a (Corporation or proprietor), situated in Baldwin County, Alabama and described as follows:

(Insert Legal Description)

And that the plat or map contained hereon is a true and correct map showing the subdivision into which the property described is divided giving the length and bearings of the boundaries of each lot and easement and its number and showing the streets, alleys and public grounds and giving the bearings, length, width and names of the streets, said map further shows the relation of the land so platted to the Government Survey, and that permanent monuments have been placed at points marked thus (o) as hereon shown. I further certify that all parts of this survey and drawing have been completed in accordance with the requirements of the Minimum Technical Standards for the practice of land surveying in the State of Alabama to the best of my knowledge, information, and belief.

WITNESS my hand this the _____ day of _____ / _____ / _____, 20 _____ .

Surveyor _____	Registration # _____
----------------	----------------------

(Ord. of 8-20-2009)

CERTIFICATION OF FLOOD HAZARD ZONE

This is to certify that we have consulted the Federal Insurance Administration Flood Hazard Boundary Map, Panel No. _____, dated _____ / _____ / _____ and found that the above described property (does, does not) lie (wholly, partly) in an identified flood hazard zone.

Engineer/Surveyor for the Applicant

AFFIDAVIT OF REGISTERED PROFESSIONAL ENGINEER

I, _____, a registered Professional Engineer in the State of Alabama with a registration number of _____, hereby certify that I have designed the within improvements in conformity with applicable codes and laws and with the principles of good engineering practice including the drainage design requirements of the Town of Elberta Subdivision Regulations. I further certify that I have supervised the construction to my design, and that the within is a true and accurate representation of improvements as installed.

Engineer

Firm

Date

(Ord. of 8-20-2009)

CERTIFICATE OF APPROVAL BY THE
(insert name of water and/or sewer, if available, utility)

The undersigned, as authorized by the (name of water and/or sewer, utility) hereby approves the within plat for the recording of same in the Probate Office of Baldwin County, Alabama, this _____ day of _____ / _____ / _____, 20 _____.

(Water and/or Sewer, Utility authorized signature)

CERTIFICATE OF APPROVAL BY THE COASTAL AREA PROGRAM

The undersigned, as Director of the Baldwin County Coastal Area Program, hereby approves the within plat for the recording of same in the Probate Office of Baldwin County, Alabama this the _____ day of _____ / _____ / _____, 20 _____.

Coastal Program Director

(Ord. of 8-20-2009)

CERTIFICATE OF APPROVAL BY THE TOWN PUBLIC WORKS DEPARTMENT

(applicable to Corporate Jurisdiction only)

The undersigned, as Public Works Supervisor of the Town of Elberta, Alabama, hereby approves the within plat for the recording of same in the Probate Office of Baldwin County, Alabama, this the _____ day of _____ / _____ / _____, 20 _____.

Public Works Supervisor

(Ord. of 8-20-2009)

CERTIFICATE OF APPROVAL BY THE TOWN PLANNING COMMISSION

The within plat of (Subdivision Name), Baldwin County, Alabama, is hereby approved by the Town of Elberta Planning Commission, this the _____ day of _____ / _____ / _____, 20 _____.

Authorized Signature

(Ord. of 8-20-2009)

CERTIFICATE OF APPROVAL
BY THE BALDWIN COUNTY HEALTH DEPARTMENT

The undersigned, as authorized by the Baldwin County Health Department, Alabama, hereby approves the within plat for the recording of same in the Probate Office of Baldwin County, Alabama, this the _____ day of _____ / _____ / _____, 20 _____.

Authorized Signature

APPENDIX II. - SCHEDULE OF FEES

[Sec. II-1. - Generally.]

(Owners of exempt subdivisions shall not be required to pay any of these fees.)

A. Major Residential Subdivisions and PUDs.

Preliminary Plat*	
Filing Fee	\$150.00
Site inspection fee	Actual Costs to be billed
Public Hearing fee	\$150.00
Final Plat*	
Filing Fee	\$150.00
Site inspection fee	Actual Costs to be billed

Additional inspection by Engineer (if required)	Actual Costs to be billed
---	---------------------------

B. *Minor Residential Subdivisions.*

Preliminary/Final Plat*	
Filing Fee/Public Hearing Fee	\$300.00
Site inspection fee	Actual Costs to be billed

C. *Nonresidential Subdivisions.*

Preliminary Plat*	
Filing Fee	\$150.00
Site inspection fee	Actual Costs to be billed
Public Hearing fee	\$150.00
Final Plat	
Filing Fee	\$150.00
Site Inspection fee	Actual Costs to be billed
Additional inspection by Engineer (if required)	Actual Costs to be billed

*Full payment of all fees is required for resubmission of plats denied by the Planning Commission. Any resubmission of denied plats must be in compliance with the requirements of Section 4.4.5 of the Subdivision Regulations. Actual costs for publication/notification to adjacent property owners will be billed to applicant by the Planning Department.

(Ord. of 8-20-2009)