

APPENDIX B - SUBDIVISION REGULATIONS<sup>[1]</sup>

## ARTICLE I. - 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 within the Corporate limits and the Planning jurisdiction of Foley, Alabama, in an effort to regulate the minimum size of lots, the planning and construction of all public streets, public roads, drainage structures, and to require the proper placement of public utilities.

## Sec. 1.2 - Policy.

- A. It is hereby declared to be the policy of the City of Foley, Alabama to consider the subdivisions of land and the subsequent development of the subdivided land as subject to the control of the City of Foley Planning Commission pursuant to the authority granted to the City by the Code of Alabama (See 2.1 - Authority).
- B. Land to be subdivided 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. Land shall not be subdivided until proper provision has been made for drainage, water, sewage disposal and streets, and approval has been granted in accordance with the procedures prescribed in these regulations.
- C. Any owner of land, which lies within the area of jurisdiction of the City of Foley Planning Commission, who wishes to subdivide or re-subdivide such land into two or more lots, plats, sites, or other divisions of land for the purpose (whether immediate or future) of sale shall submit to the City of Foley Planning Commission for approval, a plat of the subdivision, which shall conform to the minimum requirements set forth in these regulations.
- D. No subdivider shall proceed with any construction improvements or with the installation of utilities in a subdivision until such subdivision plat shall have been reviewed and granted Preliminary Plat approval by the City of Foley Planning Commission and detailed construction plans have been approved by the City Engineer.
- E. No subdivider shall proceed with the sale of lots or the erection of buildings, excluding required public improvements and utility structures, within a subdivision until such subdivision plat shall have been granted Final Plat approval entered in writing on the plat and signed by the Chairman of the City of Foley Planning Commission and recorded in the Office of the Probate Judge of Baldwin County or bonded in accordance with the procedures prescribed in these regulations.

## Sec. 1.3 - Title.

These regulations shall hereafter be known, cited and referred to as the Subdivision Regulations of the City of Foley, 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 II. - AUTHORITY AND JURISDICTION

### Sec. 2.1 - Authority.

Under the provisions of Section 11-52-30 to 11-52-36, inclusive of the Code of Alabama (recompiled 1975), which provisions are hereby made a part hereof, these following regulations governing the subdivision of land are hereby adopted by the Foley City Planning Commission at its meeting on March 18, 2015 by resolution. A copy of these regulations shall be certified to the Probate Judge of Baldwin County, Alabama, and to the City Clerk of Foley, Alabama.

### Sec. 2.2 - Jurisdiction.

On and after March 18, 2015 these Subdivision Regulations shall apply to all subdivisions of land, as defined herein, located within the corporate limits of the City of Foley and within five (5) miles of the corporate limits, unless a separate or subsequent agreement between the City of Foley and the Baldwin County Commission states otherwise.

## ARTICLE III. - 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" and "must" are always mandatory; "should" and "may" are suggestive; 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.

*Abutting/Contiguous Property:* Any property that is immediately adjacent to, touching, or separated from such a common border by a right-of-way, alley, or easement.

*ADEM:* The Alabama Department of Environmental Management.

*ALDOT:* The Alabama Department of Transportation.

*Alley:* A public right-of-way or private easement 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*).

*Base Flood:* The flood having a one percent chance of being equaled or exceeded in any given year. This is the regulatory standard also referred to as the "100-year flood."

*Base Flood Elevation:* The computed elevation to which floodwater is anticipated to rise during the base flood.

*Block:* A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-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, jurisdictional wetlands, properties, or right-of-way.

*Building Line:* (See *Setback Line*).

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

*City Council:* The City Council of the City of Foley, Alabama.

*City Engineer:* The duly appointed registered engineer of the City of Foley, Alabama.

*Common Driveway:* A private driveway located to provide a single access to multiple lots from a publicly maintained street.

*County:* Baldwin County, Alabama. *Collector Streets:* (See *Streets, Collector*).

*Corner Lot:* (See *Lot, Corner*).

*Cul-de-Sac:* (See *Streets, Cul-de-Sac*).

*Curb or Curb Line:* The inside vertical face of a masonry curb, the center line of a valley gutter or the edge of the pavement where no curb or gutters exist.

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

*Design Engineer:* A licensed 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:* Includes, but is not limited to, the design work of lot layout, the construction of drainage structures, the construction of buildings and public use areas, the planning and construction of public streets and public roads, and the placement of public utilities. Developments include but are not limited to multi-family development, subdivisions, commercial development and industrial development.

*Deviation:* An approved and acceptable change from the provisions of the Subdivision Regulations.

*Double Frontage Lot:* (See *Lot, through*).

*Drainage Study:* An engineering analysis of existing and proposed drainage conditions along with any proposed infrastructure improvements, per the design standards set forth in City Ordinance 1008-07, Manual for Design and Construction Standards.

*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. No title to real property is conveyed.

*Environmental Permit:* The environmental permit includes the construction best management practices plan, tree survey and landscape plan for land disturbing activities over one-half (½) acre, as approved by the Environmental Division.

*Expressway:* (See *Street, Expressway*).

*Family Division:* A division of land in accordance with the Code of Alabama 1975, Chapter 11-24-2(d) among the following designated legally related immediate 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.

*Flood or Flooding:* A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters;
- (b) The unusual and rapid accumulation of runoff of surface waters from any source.
- (c) Mudflow; or
- (d) Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined above.

*Flood insurance rate map (FIRM):* An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of Special Flood Hazard Areas (SFHAs), the Base Flood Elevations (BFEs) and the risk premium zones applicable to a community.

*Flood Ordinance:* Current ordinance adopted by the City of Foley.

*Floodplain:* Any land area susceptible to being inundated by floodwaters from any source.

*Floodway:* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface more than a designated height. 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 County, Alabama.
- B. Along Small Streams and Watercourses. All lands lying within 25 feet of the top of the bank of the channel (measured horizontally), unless the developer demonstrates to the satisfaction of the City of Foley Planning Commission that a lesser distance (but not less than 15 feet) is adequate based on the watershed characteristics and probable storm runoff for the base flood.

*Generalized Wetland Map:* Refers to the National Wetland Inventory (NWI) Maps, the Baldwin County Digital Wetland layer, and/or any other digital data depicting the general locations of wetlands or hydric soils and their degree of functionality within the jurisdiction of Baldwin County.

*Half-Street or Half-Alley:* A street or alley along the perimeter of a development that only a portion of the required width is constructed. The intent is that the other portion of said street or alley will be constructed at some later date by an abutting property owner, if the abutting property is developed.

*Hardship:* An unusual situation which will not permit reasonable utilization of property which is given to others within the city. A hardship exists only when it is not self-created.

*Health Department:* The Baldwin County Health Department.

*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. 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 base flood and all lands lying below the base flood elevations as demonstrated by the maps and charts contained in the Flood Insurance Study for Baldwin County, 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 100 feet of the top of the bank of the channel (measured horizontally) unless the developer demonstrates to the satisfaction of the City of Foley Planning Commission that the property in question is free from the danger of inundation by the base flood or that adequate 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 City of Foley Planning Commission may reasonably require to adequately make its determination of the flood susceptibility of the property.
- (c) Other low lying property that accumulates stormwater and retains for a significant period, due to the topography of the land.

*Licensed Engineer:* An engineer properly licensed, registered and in good standing in the State of Alabama.

*Licensed Land Surveyor:* A land surveyor properly licensed, registered and in good standing in the State of Alabama.

*Lot:* A tract, parcel, 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 building development.

*Lot Area:* The total square footage area within the lot lines of a lot.

*Lot, Corner:* A lot abutting upon 2 or more streets at their intersection or upon 2 parts of a street which form an interior angle of less than 135 degrees. The point of intersection of the street lines is the corner.

*Lot Depth:* The mean (average) horizontal distance between the front and rear lot lines, measured at right angles to the street lines.

*Lot, Flag:* A lot with a minimum 50 foot access provided to the bulk of the lot by means of a narrow corridor unless otherwise noted in adopted regulations.

*Lot, Interior:* A lot other than a corner lot.

*Lot Line:* The boundary line of a lot.

*Lot Line, Front:* On an interior lot, the lot line abutting a street; on a corner lot, the shorter lot line abutting a street; on a through lot, the lot line abutting the street providing the primary means of access to the lot; on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained.

*Lot Line, Rear:* The lot line opposite and most distant from the front lot line.

*Lot Line, Side:* Any lot line other than a front or rear lot line. A side lot line of a corner lot separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot is called an interior lot line.

*Lot of Record:* A lot which is part of a recorded plat or a plot described by metes and bounds, the map and/or description of which has been recorded according to Alabama Law.

*Lot, Through:* A lot, but not a corner lot, that abuts upon two streets, the frontages being noncontiguous.

*Lot Width:* The horizontal distance between side lot lines, measured at the minimum front setback line, as required by either the City of Foley Subdivision Regulations, or the City of Foley Zoning Ordinance.

*Master Plan:* The master plan for the physical development of the unincorporated areas of Baldwin County as adopted by the Baldwin County Commission or the Foley City Council (also known as the Comprehensive Land Use Plan).

*Maintenance Bond:* A bond of cash, check, or letter of credit used to ensure the proper operation of all public improvements (taken over by the City). The bond will be made out to the City of Foley and remain in effect for two years from the date of completion of construction. The bond shall be from the owner of said subdivision and in the amount of twenty-five percent (25%) of the total cost for the performance of all site work on said subdivision to cover such infrastructure such as drainage, utilities, streets and stabilization to include vegetation.

*Minor Street:* (See *Street, Local*).

*Minor Subdivision:* A subdivision involving not more than 5 contiguous lots, including remnant parcels, fronting on an existing publicly maintained street, and which requires no new streets or installation of main sewer and/or water lines; and when in the decision of the City staff no engineering service is required for any drainage or public improvements, except sidewalks.

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

*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.

*Parcel:* A contiguous area of land described in a single description by a deed or other instrument or as one of a number of lots on a plat or plan, separately owned and capable of being separately conveyed.

*Performance Bond:* A bond of cash, credit or letter of credit equaling 150% of the cost of constructing water, sewer, drainage, street, and other public improvements. The bond is to ensure the complete construction of such facilities and is to be made out to the City of Foley.

*Planning Commission:* The City of Foley Planning Commission.

*Preliminary Plat:* A tentative plan of the complete proposed subdivision submitted to the City of Foley Planning Commission for its consideration.

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

*Public Hearing:* An advertised public meeting involving the City Council or the Planning Commission and all interested parties.

*Record Plat:* A Plat of a proposed subdivision meeting the conditions of the Final Plat approval, if any; and containing signatures on all of the required certifications and signature blocks.

*Re-Subdivision:* 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.

*Right-of-Way:* A strip of land separate and distinct from the lots adjoining such right-of-way and not included within the dimensions or areas of such lots, which is occupied or intended to be occupied by a street, crosswalk, railroad, road, electric line, oil or gas pipeline, water main, sanitary or storm sewer main, cable television line, telephone or telecommunication lines or for another special use.

*Setback Line:* A line defining the limits of a yard in which no building or structure, other than an accessory structure, may be located.

*Sidewalk:* A right-of-way intended primarily for pedestrians, excluding self-propelled vehicles.

*Sight Distance:* The maximum extent of unobstructed vision (in a horizontal plane), along a street located at any given point on the street.

*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 Plan:* The information submitted shall include the location of the proposed subdivision in relation to the surrounding area; existing features such as highways, drainage facilities, waterways, wetlands; other significant natural and built features; the general topography of the site; the proposed streets, lots, and blocks and other appropriate information.

*Special Flood Hazard Areas:* An area having special flood, mudflow or flood-related erosion hazards and shown on a Flood Hazard Boundary Map (FHBM) or a Flood Insurance Rate Map (FIRM).

*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 functions to move traffic and to provide access to land uses, particularly high trip-generating non-residential activities. Arterials may be further classified as Principal or Minor.
- (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. Collectors may be further classified as Major or Minor.
- (d) *Local Street:* A local street is one whose primary function is to service abutting land use. This includes cul-de-sacs, marginal access streets, residential access streets, country lanes and single purpose streets.
- (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.

- (f) *Cul-de-Sac*: A minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.
- (g) *Single Purpose Street*: A two-directional one-lane local street. A major subdivision shall not be permitted to take access from a single purpose street.

*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 offers to sell, or advertises for sale any interest, lot, parcel, 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 development and division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. Such term includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

*Subdivision, Minor*: (See *Minor Subdivision*).

*Surety*: Any surety bond, certificate of deposit, irrevocable letter of credit, cashier's check, or other acceptable surety as accepted and approved by the Baldwin County Commission.

*Surveyor*: A Land Surveyor that is registered and in good standing by the State of Alabama Board of Registration for Professional Engineering and Land Surveyors.

*Traffic Impact Study*: As set forth in City Ordinance 1025-08.

*Watercourse*: Any depression serving to give direction to a flow of water, having a bed and well-defined banks. 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 as delineated by the Corps of Engineers. Wetlands generally include swamps, marshes, bogs and similar areas.

*Yard, Front*: An open, unoccupied space on the same lot with the principal building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front lines of the building and the right-of-way line. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

*Yard, Rear*: An open space on the same lot with the principal building, such space being unoccupied except possibly by an accessory building, extending the full width of the lot between the rear line of the main building projected to the side lines of the lot and the rear lot line. On all corner lots the rear yard shall be at the opposite end of the lot from the front yard.

*Yard Side*: The yard extending along a side lot line, from the front yard to the rear yard.



#### Sec. 4.1 - General.

Whenever any subdivision of land is proposed, before any contract is made for the sale of any part thereof, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the applicant/developer shall apply for and obtain approval of such proposed subdivision in accordance with the following procedures:

- A. The preparation and submission to the Planning Commission of a preliminary plat of the proposed subdivision.
- B. The preparation and submission to the Planning Commission Staff of a final plat, with required certificates. This final plat becomes the document to be recorded in the Office of Judge of Probate, Baldwin County, when duly signed.

#### Sec. 4.2 - Exemptions from Subdivision Requirements.

Notwithstanding the preceding paragraph, the following subdivisions are exempt from the provisions of these regulations:

- A. Subdivision of land by testamentary or interstate provisions;
- B. Subdivision of land by court order including, but not limited to, judgments of foreclosure;
- C. Sale, deed or transfer of land, including transfers made pursuant to a will or the laws of interstate succession, by the owner to an immediate family member, except that, in the event that there is any sale, deed, or transfer of land by the owner or an immediate family member to someone other than an immediate family member, these regulations shall apply. Each parcel shall have its own ingress/egress and utility access of not less than 30 feet in width;
- 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 wherein the size of each and every resulting parcel of land equals or exceeds ten (10) acres and involves no street or other public improvements. Each parcel shall have frontage on a maintained right-of-way;
- F. The construction or development of roads on private property to be used for agricultural purposes;
- G. A "one-time" split of a single parcel into two parcels, if, and only if, the parcel existed and has not been divided since July 1, 1991. Sufficient documentation of property status as of July 1, 1991 must be submitted along with request for exemption.
- H. The relocation of a common property line between two parcels where no new parcels are created. The revised parcels shall meet minimum lot size, width requirements and access requirements.

Applicants must provide Restrictive Covenant and/or approval from their Homeowner's Association to ensure the exemption meets previously recorded documents.

In the case of an exemption involving a lot or lots which are included within a previously recorded subdivision plat, a re-subdivision and a new plat will be required to reflect the re-subdivision of the lots, and such new plat shall be recorded in the Office of the Judge of Probate of Baldwin County. The new plat reflecting the re-subdivision of such lot or lots shall contain the following dedication and certificates:

1. Licensed Surveyor's Certificate and Description of Land Platted;

2. A Notarized Owner's Dedication;
3. A Certificate of Approval by the Subdivision Property Owner's Association (if applicable);
4. A Certificate of Approval by the City of Foley Engineer;
5. A Certificate of Approval by the City of Foley Community Development Director.

A Request for an Exempt Subdivision Letter and supporting documentation to substantiate any claim of exemption shall be submitted to the Community Development Department. Owners of exempt subdivisions shall not be required to submit a plat to the City of Foley Planning Commission nor pay any of the required fees. Exemption from the requirement for approval to subdivide does not constitute exemption from the requirements of other applicable regulations including but not limited to state law, zoning regulations, ordinances, Health Department requirements or, if located within the planning jurisdiction of the City, the regulations of Baldwin County. Any subdivider who appears to the Planning Department to be circumventing the intent and substance of these Regulations shall be required to submit a plat for review and approval by the Planning Commission and shall be subject to penalties.

#### Sec. 4.3 - Pre-Application.

Whenever the subdivision of land is proposed within the jurisdiction of these regulations, the owner/developer is required to consult early and informally with representatives of the City Community Development Department and the City Engineering Department. In this way the Subdivider can discuss the details of the subdivision and any discrepancies with the regulations. This will facilitate the subsequent preparation of the subdivision plat or development plan.

The subdivider shall present a lot layout sketch plan, drawn to scale. The information submitted shall include the location of the proposed subdivision in relation to the surrounding area; existing features such as highways, drainage facilities, waterways, wetlands; other significant natural and built features; the general topography of the site; and the proposed streets, lots, and blocks. The sketch plan shall be submitted to the Community Development Department and City Engineering Department.

The sketch plan is intended to serve as an initial step in the subdivision process.

Upon completing the pre-application meeting, the applicant may proceed to prepare the Preliminary Plat for the subdivision. However, neither the applicant nor the City shall be bound by the pre-application review; and it is expressly understood that favorable consideration by the City at the pre-application stage of the process shall under no circumstance be construed as preliminary or tentative approval.

#### Sec. 4.4 - Preliminary Plat.

##### A. *Application Procedure.*

1. Before preparing the preliminary plat for a subdivision, the developer should discuss with the Community Development Department and Engineering Department Staff the procedure for acceptance of a subdivision plat and the design requirements.
2. Be accompanied by 3 full-size sets of black or blue-line prints of the proposed Preliminary Plat, one electronic version of the proposed Preliminary Plat, preliminary traffic and drainage layouts in Adobe PDF format and one 11" x 17" copy of the proposed Preliminary Plat.
3. The applicant/developer should contact all utility providers prior to the application submission to obtain input as to needs and requirements that could expedite reviews and approval. The letters of availability for utilities shall be submitted documenting if utilities are in place, under contract or other.

4. The application and applicable fees shall be submitted by noon at least seventeen (17) business days prior to the Commission's regularly scheduled meeting. The application deadline and meeting date may vary based on extenuating circumstances.
5. The application must be complete and must be accompanied by 2 sets of mailing labels for all adjacent property owners and all other information as reflected on the current departmental checklist for a preliminary plat which may be modified at the discretion of the Planning Commission Staff. The mailing labels should be determined using the Baldwin County revenue department website:  
<http://www.co.baldwin.al.us>.
6. The Preliminary Plat shall meet and/or exceed the minimum standards of design and general requirements for construction of public improvements set forth in the City of Foley, Alabama Manual for Design and Construction Standards and other required City ordinances. The Preliminary Plat application must include all information, as required on the current departmental checklist for Preliminary Plat which may be modified at the discretion of the Planning Commission Staff.
7. A current (within 60 days of application date) title policy, title opinion, or title report, verifying ownership shall be submitted. Said title document shall cover a period of not less than 30 years.
8. Be accompanied by the Traffic Impact Study, Drainage Study and other information as required.

B. *Review and Approval.*

1. The Planning Commission shall approve, approve subject to modifications, approve with contingency(s) or deny the preliminary plat within 30 days after the date of its regularly scheduled meeting at which time a public hearing was held.
2. The reports from the City Engineer, Community Development Director, Fire Chief, and other applicable city or county official concerning the preliminary plat shall be reviewed by the Planning Commission before action is taken.
3. The applicant/developer will be notified in writing of Planning Commission approval, approval subject to modifications, approval with contingency(s) or denial of the subdivision.
4. The approval of a preliminary plat shall be effective for a period of two years at the end of which final approval on the subdivision must have been obtained from the Planning Commission. Staff may consider a request for an extension of preliminary approval from the applicant/owner in the event of an extenuating circumstance. Any plat not approved shall be null and void, and the applicant/owner shall be required to resubmit a new plat for preliminary approval subject to all new zoning, subdivision, and other applicable regulations.
5. Prior to initiating construction, an approved Land Disturbance Permit, Environmental Permit and any other required permit, along with applicable fees, shall be submitted for approval. No site work can begin until all required permits have been obtained and detailed construction plans have been approved by the City Engineer.

Sec. 4.5 - Prior to Final Plat.

A. *Application Procedures.*

1. The applicant/developer shall submit two (2) sets of full sized as-built plans, plus 1 electronic version in Adobe PDF format, and schedule a final inspection at least 25 business days prior to the Planning Commission's regularly scheduled meeting. The subdivision infrastructure must meet all applicable regulations as outlined in the City of Foley, Alabama Manual for Design and Construction Standards, the Environmental Ordinance and other applicable ordinances prior to placement on the agenda.

B. *Irrevocable Performance Bond/Letter/Line of Credit.*

1. If an irrevocable performance bond/letter/line of credit is being used in lieu of the infrastructure being complete, the required infrastructure shall be completed to a minimum of 85% of the improvements.
2. A draft irrevocable performance bond/letter/line of credit must be submitted to the City attorney for review at least fifteen (15) days prior to the submittal date.
3. The irrevocable bond/letter/line of credit shall be from the owner of said subdivision and in an amount no less than one hundred fifty percent (150%) of the cost of the required improvements.
4. The irrevocable performance bond/letter/line of credit shall be effective until such time as the maintenance bond is issued or one year from date of issuance.
5. All irrevocable performance bonds/letters/line of credit shall contain an "Evergreen Clause" stating:  
 "This bond/letter of credit expires on \_\_\_\_\_, but will automatically extend without amendment for an additional two year period from the expiration date, or any future expiration date unless at least thirty (30) days prior to such expiration date we notify you by overnight courier, that this bond/letter of credit will not be extended. Upon receipt by you of such notice, you may draw on us hereunder by means of your sight draft for an amount outstanding at the time of drawing."

C. *Irrevocable Maintenance Bond/Letter/Line of Credit.*

1. Upon 100% completion of the improvements, a irrevocable financial guarantee for maintenance of infrastructure must be provided for review by the City attorney, fifteen (15) days prior to the submittal date.
2. At the time of approval by the Planning Commission, the irrevocable bond/letter/line of credit shall become effective and shall extend for a period of at least two (2) years from the date of issuance.
3. The irrevocable bond/letter/line of credit shall be from the owner of said subdivision and in the amount of twenty-five percent (25%) of the total cost for the performance of all site work on said subdivision to cover such infrastructure such as drainage, utilities, stabilization to include vegetation, and streets.

- D. The applicant/developer shall submit a copy of the final plat in digital format on CD, DVD or other approved media, to the Community Development Department. CADD/CAM files shall be submitted in a acceptable format. The digital file(s) shall be accompanied by a transmittal letter which lists the files being submitted, a description of the data in each file, a level/layer schematic of each design file, and a statement conveying rights to the City of Foley for the data to be used for GIS purposes. Text, parcels, and roads must be grouped together on separate layers. A separate miscellaneous layer may be used for other information. All data submitted shall use NAD 1983 Alabama State Plane West Zone Coordinates in U.S. Survey Feet. Digital files must display, by text, said state plane coordinates for all points specified as monuments.

Sec. 4.6 - Final Plat.

A. *Plat Requirements.*

1. The application and applicable fees shall be submitted by noon at least seventeen (17) business days prior to the Planning Commission's regularly scheduled meeting. The application deadline and meeting date may vary based on holidays or extenuating circumstances.
2. The application must be complete and must be accompanied by all information as reflected on the current departmental final plat checklist which may be modified at the discretion of the Planning Commission Staff.
3. A current (within 60 days of application date) title policy, title opinion, or title report, verifying ownership shall be submitted if any ownership changes have taken place during the construction period.

B. *Planning Review and Action.*

1. Planning Commission Staff shall review the final plat for compliance with the Subdivision Regulations, the Manual for Design and Construction Standards, the Zoning Ordinance and all other applicable City ordinances. Any comments or recommendations from the Community Development Department and City Engineer shall be submitted to the Planning Commission at its meeting.
2. Commission Action:
  - a. The Planning Commission shall approve or disapprove the final plat within thirty (30) days after the date of its regularly scheduled meeting at which the final plat is submitted.
  - b. Failure of the Planning Commission to act within thirty (30) days of submission shall be deemed approval of the final plat.
  - c. If the plat is approved, the certification of Planning Commission approval on the final plat will be signed by the duly authorized representative of the Planning Commission.
  - d. The Planning Commission may table the final plat for further investigation, discussion, and reconsideration if consented by the applicant.
  - e. If the final plat is denied, the reason for the denial shall be noted in the minutes of the Planning Commission and a letter shall be transmitted to the applicant stating the reasons for the denial.
  - f. Approval of the final plat by the Planning Commission shall not constitute or effect acceptance by the City of Foley of any street, park, drainage facility, retention pond, or other open space or common area shown upon the plat.
3. Upon approval by the Planning Commission, the City Engineer shall be authorized to sign all the copies of the final plat. The owner/developer shall have the signed copies recorded in the Baldwin County Office of the Judge of Probate. The final plat shall be filed prior to the sale of any lot in the subdivision. The owner/developer shall furnish the City of Foley a copy of the said plat upon recording.

Sec. 4.7 - Release of Surety.

A. *Irrevocable Performance Bond/Letter/Line of Credit.*

1. Upon completion of all said improvements to include drainage, utilities, stabilization to include vegetation, and streets, the owner shall request to the City for release from the irrevocable performance bond and issuance of the irrevocable maintenance bond/letter/line of credit.
2. The City shall evaluate the improvements to meet and/or exceed standards and specifications as detailed by the design engineer. If the requirements have been met, the City shall release the owner from further obligations under said irrevocable performance bond/letter/line of credit.
3. If it is determined that the requirements have not been met within one year then the irrevocable performance bond/letter/line of credit may be extended, for a one year period to allow the owner additional time to correct the deficiencies which prohibited the release of the irrevocable bond/letter/line of credit. If a site contractor is unable and/or unwilling to satisfy the deficiencies as determined by the City, the bond shall be forfeited with the bond being payable to the City of Foley for the direction of such work and/or activities necessary for the completion of the required improvements. The owner of the property shall be liable for any additional cost incurred.

B. *Irrevocable Maintenance Bond/Letter/Line of Credit.*

1. After two years from the issuance of the irrevocable maintenance bond/letter/line of credit, the owner shall request to the City for release from the maintenance bond.
2. The City shall evaluate the improvements to determine if infrastructure improvements have been

maintained as required.

3. If the requirements have been met under the irrevocable bond/letter/line of credit, the City shall release the owner from further obligations under said irrevocable maintenance bond/letter/line of credit.
4. If it is determined that the requirements have not been met the irrevocable bond/letter/line of credit may be extended, upon request, for one six (6) month interval to allow the owner additional time to correct the deficiencies which prohibited the release of the bond. If a site contractor is unable and/or unwilling to satisfy the deficiencies as determined by the City, the irrevocable bond/letter/line of credit shall be forfeited with the irrevocable bond/letter/line of credit being payable to the City of Foley for the direction of such work and/or activities necessary for the maintenance of the required improvements. The owner of the property shall be liable for any additional cost incurred.

#### Sec. 4.8 - Minor Subdivisions.

A subdivision involving not more than five (5) contiguous lots, including remnant parcels, fronting on an existing maintained right-of-way, and which requires no new streets or the installation of main sewer and/or water lines; and when in the decision of the Planning Commission Staff no engineering service is required for any drainage or public improvements, except sidewalks. The subdivider should consult with Planning Commission Staff prior to preparation of the Application shall be filed with requirements by noon at least fifteen days prior to a regularly scheduled Planning Commission meeting.

#### Sec. 4.9 - Rural/Estate Subdivision.

A subdivision having no more than twelve (12) lots, including remnant parcels, and containing a minimum lot size of two (2) acres. Due to the minimal infrastructure impacts from this type subdivision, the following construction standards are applicable:

- A. Standard Street Construction Components: 6" compacted sub-grade; 8" sandy clay base or 6" aggregate base; 1.5" asphalt binder; 1" 429-A wearin layer. Modified Construction Components: Minimum 18" improved sand subgrade; 8" granular soil base: 1.5" 429-A wearing layer.
- B. Minimum Street Width: Twenty (20) feet.
- C. No Curbs/Gutters: Open roadway ditches; drainage calculations must be submitted to support ditch capacities, grades, velocities, etc.
- D. Minimum Roadway Right-of-Way: Sixty (60) feet.
- E. Maximum Ditch Side Slopes: 3-1, horizontal to vertical; maximum roadway ditch depth twenty-four (24) inches with a minimum shoulder width of four (4) feet; maximum ditch depth may be exceeded with approval of the City.
- F. Street lights shall be provided on a staggered basis one hundred fifty (150) feet apart. Street lights shall not be placed within the normal drainage ways of roadway ditches. Where street light poles will encroach on roadway drainage ways, easements shall be provided on the subdivision lots to accommodate the poles.
- G. Sidewalks shall be provided at the option of the subdivision developer.
- H. Where it is necessary to cross a roadway ditch to gain access to a lot, an adequately sized culvert providing a minimum travel width of twelve (12) feet shall be provided. Said culvert shall have slope paved end sections with a slope no steeper than 4 horizontal to 1 vertical.
- I. All permanent dead end roadways shall be provided with a City of Foley standard cul-de-sac per adopted construction standards.

- J. Drainage requirements are the same as for other subdivision within the City of Foley.
- K. The maximum number of lots that may be served by a common driveway shall be two (2). The maximum length of a common driveway shall be three hundred thirty (330) feet. Common driveways shall be contained within a private ingress/egress easement labeled as such on the final plat. Said easement shall be a minimum of thirty (30) feet in width. All subdivisions using common driveways shall provide for a Homeowners Association to be responsible for the maintenance of the common driveway.
- L. Extension of a rural/estate subdivision street(s) which will result in the rural/estate subdivision exceeding the maximum number of lots permitted by these regulations may do so only with approval of the City of Foley Planning Commission. At minimum, it will be necessary for the subdivider to provide an additional 1.5" of 429-A wearing course, or the current wearing course listed in the City of Foley Manual for Design and Construction Standards, to the existing rural/estate subdivision street. Further, additional strengthening measures may be required, based upon currently recognized engineering evaluation procedures as determined by a registered engineer.

## ARTICLE V. - ADMINISTRATION

### Sec. 5.1 - General.

The developer has the duty of compliance with reasonable conditions laid down by the City of Foley Planning Commission for design, dedication, and improvement of the land so as to conform to the physical and economical development of the corporate limits and planning jurisdiction of the City of Foley and to the safety and general welfare of future property owners.

### Sec. 5.2 - Administration.

The City Engineer is appointed by the City of Foley and acts as their authorized agent in the interpretation and enforcement of the plans, specifications and requirements of these regulations. The City Engineer, or his authorized agent, shall determine the amount, quality, and acceptability of the work as specified in these regulations.

### Sec. 5.3 - Enforcement.

- A. *General.* It shall be the duty of Planning Commission Staff to enforce these regulations and to bring to the attention of the City of Foley Attorney any violations or lack of compliance with these regulations.
- B. *Violations.* No owners or agent of the owner, of any lot located within a subdivision may transfer or sell any land by reference to or exhibition of or by other use of a plat of a subdivision, before such plat has been approved by the City of Foley Planning Commission and recorded 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.
- C. *Penalties.* Violations of these regulations shall result in forfeiture and payment of a penalty of \$100.00 for each lot or parcel so transferred or sold. The City of Foley may also institute an injunction against such transfer 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 City nor shall any utilities be extended to any subdivision found in violation of these regulations.

#### Sec. 5.4 - Conflicts with Other Laws.

Whenever the provisions of these regulations impose more restrictive standards that are required in or under any other ordinance, the regulations herein contained shall prevail. Whenever the provisions of any other ordinance require more restrictive standards than are required herein, the requirements of such regulations shall prevail.

#### Sec. 5.5 - Conformity to City of Foley Comprehensive Plan.

All proposed subdivision plans shall conform to all the City of Foley plans and to the Foley Zoning Ordinance, when applicable. Whenever a tract to be subdivided embraces any part of a highway, major street, secondary street, or parkway so designated, such part of such proposed public way shall be platted by the subdivider in the same location and at the same width as indicated on such City plan.

#### Sec. 5.6 - Deviations.

Where the City of Foley Planning Jurisdiction finds that unusual hardship may result from strict compliance with these regulations, it may approve deviations to these regulations so that substantial justice may be done, provided that such deviation shall not have an effect of nullifying the intent or purpose of these regulations.

The City of Foley Planning Commission shall not approve deviations unless it shall make findings based upon the evidence presented to it in each specific case that:

- a. The granting of the deviation will not be detrimental to the public safety, health, or welfare or injurious to other property.
- b. The conditions upon which the request for a deviation is based are unique to the property for which the deviation is sought and are not applicable generally to other property.
- c. Because of the particular physical surroundings, shape or topographical conditions of the 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.

A petition for such deviation shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for consideration by the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

Any deviation thus authorized shall be entered in writing in the minutes of the Planning Commission with the reason which justified the departure to be granted.

#### Sec. 5.7 - Amendment.

Any article, section, subsection, or provision of these Subdivision Regulations proposed for amending shall be published as provided by law. Before adoption, a public hearing, as described by law, shall be held thereon. Following its adoption, a copy of the amendment shall be certified by the Planning Commission to the Probate Judge of Baldwin County.

#### Sec. 5.8 - Severability and Separability.

If any section, clause or portion of these regulations shall be held by a court of competent jurisdiction to be invalid or unconstitutional, such findings shall not affect any other section, clause or portion of these regulations.



#### Sec. 5.9 - Vacation of Plat or Map.

Any plat or map, whether or not executed and recorded as provided in these regulations, may be vacated by the owner, his executor, administrator or guardian of the lands at any time before the sale of any lot therein. A written instrument declaring the same to be vacated, executed, acknowledged and recorded in like manner as conveyances of land which declaration, being duly recorded, shall operate to destroy the force and effect of the recording of the plat or map so vacated and to divest all public rights in the streets, alleys and public grounds and all dedications laid out or described in such plat or map.

When lots have been sold, the plat or map may be vacated, in the manner herein provided by all the owners of lots in such plat or map joining the execution of such writing, as prescribed by law.

#### Sec. 5.10 - Public Use and Service Areas.

- A. *Easements for Utilities.* Except where alleys are provided for the purpose, the Planning Commission may require easements not exceeding ten (10) feet in width for poles, wires, conduits, storm and sanitary sewer, gas, water, or other utility lines on each side of the common rear lot line and five (5) feet for side lot lines if necessary or advisable in the opinion of the Planning Commission, and unless wider easements are required in the opinion of the City Engineer.
- B. *Suitability of the Land.* Land which the Planning Commission has found to be unsuitable for subdivision due to flooding, bad drainage, steep slopes, rock formation, or other features likely to be harmful to the safety, health, and general welfare of the future residents shall not be subdivided unless adequate methods approved by the Planning Commission are formulated by the subdivider for meeting the problems involved.

#### Sec. 5.11 - Mobile Home Subdivisions.

All provisions of the Subdivision Regulations and other applicable City ordinances shall apply to the development of mobile home subdivisions, including the preliminary and final plat requirements. In addition, all other applicable local, county, state, federal and other minimum requirements pertaining to mobile home use shall be met.