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SUBDIVISION REGULATIONS

SUBDIVISION REGULATIONS

CITY OF GULF SHORES

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SUBDIVISION REGULATIONS

FOR

THE CITY OF GULF SHORES

AMENDED BY:

- Resolution dated September 22, 1987
- Resolution No. 2-89 dated June 27, 1989
- Resolution No. 3-90 dated March 27, 1990
- Resolution No. 4-90 dated October 23, 1990
- Resolution No. 5-95 dated April 25, 1995
- Resolution No. 6-96 dated December 17, 1996 (application submittal dates)
- SDR99-01 - October 26, 1999 (provisions for sidewalks)
- SDR99-02 - March 16, 1999 (amend plat fee schedule)
- SDR99-03 - October 26, 1999 (adopt landscaping regulations)
- SDR99-04 - October 26, 1999 (adopt Development Impact Policy)
- SDR99-05 - November 16, 1999 (amend Design Standards)
- SDR99-06 - December 14, 1999 (revise drainage requirements)
- SDR2000-01 - January 25, 2000 - (assurance for completion of improvements)
- SDR2000-02 - April 25, 2000 - (electronic submission of Final Plats)
- SDR2001-01 - October 23, 2001 - (Open Space)
- SDR2002-01 - February 26, 2002 - (Lots outside Corp. Limits)
- SDR2002-02 - February 26, 2002 - (Fees)
- SDR2002-03 - February 26, 2002 - (Landscaping & Buffering)
- SDR2002-04 - February 26, 2002 - (amend additional widths on County Roads)
- SDR2002-05 - May 28, 2002 - (Recording of Final Plats)
- SDR2002-06 - December 17, 2002 - (Landscaping & Buffers)
- SDR2003-01 - October 28, 2003 - (Sidewalks)
- SDR2005-01 - March 22, 2005 - (Amend Traffic Circulation Standards)
- SDR2005-02 - April 26, 2005 - (Maintenance Bond)
- SDR2005-03 - June 28, 2005 - (Cash Bond or Letter of Credit)
- SDR2005-04 - August 25, 2005 (PUD Approvals)
- SDR2005-05 - November 15, 2005 - (Street Right of Way Requirements)
- SDR2006-01 - March 2, 2006 - (Inspection of Improvements and Street Construction Standards)
- SDR2006-02 - November 28, 2006 - (Performance/Maintenance Bonds)
- SDR2006-03 - November 28, 2006 - (Lot Area outside Corporate Limits)
- SDR2007-01 - January 23, 2007 - (Permits Prior to Construction of Subdivision)
- SDR2007-02 - February 27, 2007 - (Lot Sizes in Baldwin County)
- SDR2007-03 - April 24, 2007 - (Landscaping & Buffering)
- SDR2012-01 - July 24, 2012 - (Subdivision Definition)
- SDR2015-01 - January 27, 2015 - (Multi Family Dwellings)
- SDR2015-02 - July 28, 2015 (Assurance for Completion of Improvements)
- SDR2017-01 - May 23, 2017 - (Comprehensive Subdivision Review)
- SDR2019-01 - May 29, 2019 (Assurance for Completion of Improvements)

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ARTICLE I

TITLE, AUTHORITY, AND JURISDICTION

SECTION 1-1. TITLE

These regulations shall hereafter be known, cited and referred to as the Subdivision Regulations of the City of Gulf Shores, Alabama.

SECTION 1-2. AUTHORITY

These Subdivision Regulations are adopted under the authority of Chapter 52, Sections 11-52-30 through 11-52-54 inclusive, of the 1975 Code of Alabama, as amended.

The territorial jurisdiction of the City of Gulf Shores Planning Commission over the subdivision of land shall include all land located in the City of Gulf Shores and all land lying within five miles of its corporate limits and not located in any other municipality; except that, in the case of any such non-municipal land lying within five miles of another municipality having a planning commission, the jurisdiction of the City of Gulf Shores shall terminate at a boundary line equidistant from the respective corporate limits of the City of Gulf Shores and the neighboring municipality.

ARTICLE II

PURPOSES AND POLICIES

SECTION 2-1. PURPOSES

These regulations are adopted for the following purposes:

- A. To protect and provide for the public health, safety, and general welfare of the Municipality.
- B. To guide the future growth and development of the Municipality in accordance with a master plan.
- C. To provide for adequate light, air, and privacy, to secure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population.
- F. To insure public facilities are available and will have a sufficient capacity to serve the proposed subdivision.
- G. To prevent the pollution of streams, waterways, and bodies of water to assure the adequacy of drainage facilities; and to encourage the wise use and management of natural resources throughout the Municipality.
- H. Social, Economic and Environmental Sustainability. To protect the character and the social, economic and environmental sustainability of all parts of the area within the subdivision jurisdiction.
- I. Circulation. To provide an efficient relationship between development and the circulation of traffic, having particular regard to the avoidance of congestion, to make adequate provision for traffic through the proper location and width of streets, and promote safe convenient bicycle and pedestrian travel through a convenient and connected network of bicycle and pedestrian facilities to all areas of Gulf Shores and surrounding regions suitable for all users and abilities that are well integrated into the overall transportation system.
- J. Innovative Design. To encourage innovative subdivision design that will produce attractive, efficient, safe, and convenient arrangements of housing and neighborhood environments affording a choice of lifestyles.

SECTION 2-2. POLICIES

A. Any owner of land, which lies within the planning jurisdiction of the Municipality, who wishes to divide or resubdivide such land into two or more lots, plats, sites or other division of land for the purpose, whether immediate or future, of sale or of building development, or to resubdivide such land, shall submit to the City Planning Commission for approval, a plat of the subdivision, which shall conform to the minimum requirements set forth in these regulations.

B. No subdivider shall proceed with improvements or installations of utilities in a subdivision until such subdivision plat shall have been granted preliminary plat approval by the City Planning Commission.

C. The following subdivisions of land located within the corporate limits of the City of Gulf Shores shall be subject to the approval requirements of the Zoning Ordinance and shall otherwise be exempted from the separate approval requirements of these Regulations:

- 1) A subdivision of land that is a condominium as defined in the Zoning Ordinance and as otherwise regulated by Alabama law, in which all land areas and common improvements and facilities are owned by all the dwelling unit owners on a proportional, undivided basis;
- 2) A subdivision of land that is a Cottage Subdivision as defined in the Zoning Ordinance;
- 3) A subdivision of land that is an apartment house or other form of multi-family dwelling containing three or more dwelling units which may be leased or rented but in which title to all of the units, land, and improvements will be retained under single ownership.

D. The subdivider shall be responsible for the installation of all necessary improvements including streets, water and sewer systems, drainage facilities, utilities, and other improvements set forth under these regulations, all constructed to meet the standards and requirements set forth herein.

ARTICLE III
DEFINITIONS

SECTION 3-1. DEFINITIONS

For the purposes of these regulations, certain terms and words are hereby defined. The meaning of terms not defined in this Section shall be as defined in The New Illustrated Book of Development Definitions, (Moskowitz and Lindbloom, 1993, Center for Urban Policy Research, Rutgers University). All remaining words used are intended to have the commonly accepted definitions contained in the Merriam-Webster Dictionary.

SECTION 3-2. INTERPRETATION

The Planning Director of the City of Gulf Shores is hereby authorized to make a final determination of any term used in these regulations. In case of a dispute over such interpretation a written appeal of the Planning Director's determination may be filed with the Planning Commission. Such appeal must be filed within 15 days of such determination.

SECTION 3-3. USE OF WORDS

In the interpretation of these regulations, the provisions and rules of this Section shall be observed and applied, except where the context clearly requires otherwise.

A. The masculine gender shall include the feminine, and the feminine gender shall include the masculine.

B. 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; the word "herein" means "in these regulations"; the word "regulations" means "these regulations".

C. 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"; a "building" or "structure" 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".

D. In case of any conflict between the text of these regulations and any caption, illustration, figure, or other graphic material, the text shall govern.

F. For purposes of these regulations certain words and terms used herein are defined as follows:

1. ALLEY - a right-of-way primarily designed to provide a secondary access to the side or rear of properties.
2. APPLICANT - the owner of land proposed to be subdivided or his designated representative. Consent shall be required from the legal owner of the tract to be subdivided.
3. BLOCK - A tract of land bounded by streets, or by a combination of streets, public open spaces, shorelines, or other conditions limiting development of a double tier of lots.

4. BUILDING - Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and includes any structure.
5. BUILDING SETBACK LINE - A line parallel to the property line which defines the distance a building or structure must be set back from such property line.
6. CITY – The City of Gulf Shores, Alabama including its employees and instrumentalities.
7. CITY COUNCIL - The governing body of the City of Gulf Shores, Alabama.
8. CITY ENGINEER - The registered engineer designated by the Mayor & City Council to furnish engineering assistance in the administration and enforcement of these regulations.
9. COASTAL CONSTRUCTION CONTROL LINE (CCCL) - The portion of the coastal construction line established pursuant to the provisions of Division 8 of the ADEM Administrative Code that lies within the Gulf Shores City Limits and Police Jurisdiction. Between the straight line segments formed by connecting plane coordinates (X = 1865129.97822 feet; Y = 83376.86242 feet) otherwise known as monument ADEM B 19 to (X = 1874944.3364 feet; Y = 84333.7475 feet) otherwise known as monument GS-1 to (X = 1877413.2794 feet; Y = 84725.6701 feet) otherwise known as monument GS-2 to (X = 1878198.9455 feet; Y = 84861.6391 feet) otherwise known as monument GS-3 to (X = 1878689.8784 feet; Y = 84958.7743 feet) otherwise known as monument GS-4 to (X = 1879962.6489 feet; Y = 85157.3364 feet) otherwise known as monument GS-5 to (X = 18883097.1139 feet; Y = 85838.7517 feet) otherwise known as monument GS-6 to (X = 1885410.1907 feet; Y = 86341.6598 feet) otherwise known as monument GS-7 to (X = 1887350.0210 feet; Y = 86681.3575 feet) otherwise known as monument GS-8 to (X = 1889303.8015 feet; Y = 87023.5011 feet) otherwise known as monument GS-9 to (X = 1891063.9592 feet; Y = 87398.5069 feet) otherwise known as monument GS-10 to (X = 1892350.9960 feet; Y = 87574.8090 feet) otherwise known as monument GS-11 to (X = 1894432.3520 feet; Y = 87863.6736 feet) otherwise known as monument GS-12 to (X = 1896515.1468 feet; Y = 88152.5970 feet) otherwise known as monument GS-13 to (X = 1896815.6398 feet; Y = 88168.9013 feet) otherwise known as monument GS-14 to (X = 1900062.6008 feet; Y = 8858.9627 feet) otherwise known as monument GS-15 to (X = 1900062.7308 feet; Y = 88553.6130 feet) otherwise known as monument GS-16 (X = 1902673.6989 feet; Y = 88891.7226 feet) otherwise known as monument GS-17 (X = 1904021.7705 feet; Y = 89114.3675 feet) otherwise known as monument GS-18 to (X = 1905005.6395 feet; Y = 89295.1185 feet) otherwise known as monument GS-19 to (X = 1905818.8787 feet; Y = 89464.8840 feet) otherwise known as GS-20 to (X = 1906587.0801 feet; Y = 89671.5091 feet) otherwise known as monument GS-21 to (X = 1907261.0074 feet; Y = 89795.7454 feet) otherwise known as monument GS-22 to (X = 1908044.3756 feet; Y = 89959.6804 feet) otherwise known as monument GS-23 to (X = 1909552.8366 feet; Y = 90224.5962 feet) otherwise known as monument GS-24 to (X = 1910543.0187 feet; Y = 90368.0135 feet) otherwise known as monument GS-25 to (X = 1912112.0365 feet; Y = 90569.4627 feet) otherwise known as monument GS-26 to (X = 1912748.2105 feet; Y = 90599.8985 feet) otherwise known as monument GS-27 to (X = 1913255.6252 feet; Y = 90686.7018 feet) otherwise known as monument GS-28 to (X = 1913563.2720 feet; Y = 90714.4626 feet) otherwise known as monument GS-29 to (X = 1915387.80303 feet; Y = 90735.77117 feet) otherwise known as monument ADEM B 20 to (X = 1915397.18585 feet; Y = 90802.39860 feet) otherwise known as monument ADEM B 22. To the extent, if any, the corporate

limits or police jurisdiction of the city now or hereafter include Gulf beachfront property not intersected by the above-described straight line segments, the "Coastal Construction Control line" or "CCCL" shall be the construction control line specified by the Alabama Department of Environmental Management for such additional Gulf beachfront property under ADEM Administrative Code R. 335-8-1-.02 as in effect from time to time; in Baldwin County (the Fort Morgan Peninsula) the straight line segments formed by connecting plane coordinates (x = 339,869.380 feet; y = 82,413.826 feet) in the vicinity of monument BC-0 to (x = 343,833.777 feet; y = 82,946.329 feet) in the vicinity of monument BC-1 to (x = 344,439.935 feet; y = 83,027.749 feet) in the vicinity of monument BC-2 to (x = 345,229.900 feet; y = 83,267.806 feet) in the vicinity of monument BC-3 to (x = 346,070.573 feet; y = 83,318.732 feet) in the vicinity of monument BC-4 to (x = 347,947.400 feet; y = 83,542.163 feet) in the vicinity of monument BC-5 to (x = 353,678.481 feet; y = 84,097.590 feet) in the vicinity of monument BC-6 to (x = 358,262.949 feet; y = 84,424.908 feet) in the vicinity of monument BC-7 to (x = 361,952.301 feet; y = 84,532.314 feet) in the vicinity of monument BC-7A to (x = 367,652.468 feet; y = 84,352.329 feet) in the vicinity of monument BC-8 to (x = 370,294.079 feet; y = 84,232.401 feet) in the vicinity of monument BC-9 to (x = 370,337.309 feet; y = 84,095.345 feet) in the vicinity of monument BC-10 to (x = 372,723.136 feet; y = 84,013.940 feet) in the vicinity of monument BC-11 to (x = 374,515.213 feet; y = 84,209.778 feet) in the vicinity of monument BC-12 to (x = 381,454.710 feet; y = 83,545.945 feet) in the vicinity of monument BC-13 to (x = 382,099.449 feet; y = 83,460.299 feet) in the vicinity of monument BC-14 to (x = 384,804.496 feet; y = 83,494.181 feet) in the vicinity of monument BC-15 to (x = 388,949.030 feet; y = 83,361.769 feet) in the vicinity of monument BC-16 to (x = 394,023.606 feet; y = 83,282.288 feet) in the vicinity of monument BC-17 to (x = 394,115.430 feet; y = 83,209.569 feet) in the vicinity of monument BC-18 to (x = 396,624.613 feet; y = 83,299.904 feet) in the vicinity of monument BC-19.

10. CONSERVATION SUBDIVISION - A development design technique that concentrates buildings on a part of the site to allow the remaining land to be used for open space or preservation of environmentally sensitive areas. The open space may be owned by either a private or public entity.
11. CONSERVATION EASEMENT: A legally enforceable agreement of a holder in real property that restricts the manner in which the land may be developed in an effort to protect natural, scenic, or open space values of real property.
12. 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 two (2) street lines are equal in which case the owner shall be required to specify which is the front.
13. COUNTY - the County of Baldwin, Alabama.
14. DEDICATION- the offer to transfer private property to a public ownership.
15. DEVELOPER - the owner of land proposed to be subdivided or his designated representative. Consent shall be required from the legal owner of the tract to be subdivided.
16. DRAINAGE FACILITIES - Structural and nonstructural elements designed to collect stormwater runoff and convey it away from structures and through the roadway right-of-way in a manner which adequately drains sites and roadways and minimizes the potential for flooding and erosion

17. EASEMENT - a grant by the property owner of use, by the public, a corporation, or person(s) of a designated part of his property for specific purposes or as created by operation of law.
18. ENGINEERING PLAN - Plans prepared by a registered engineer showing details of the design and construction of required improvements in a proposed subdivision.
19. EROSION CONTROL - Measures and actions which are to be taken to control potential erosion and sedimentation problems.
20. FINAL PLAT - a plat of a tract of land which meets the requirements of these regulations and is in form for recording in the Office of the Probate Judge of Baldwin County, Alabama.
21. FINANCIAL SURETY - A financial guarantee of performance or maintenance in an amount and form satisfactory to the Planning Commission.
22. FLOODWAY - the stream channel and the portion of the adjacent floodplain which must be reserved solely for the passage of floodwaters to prevent an increase in the upstream flood heights. For the purpose of these regulations, floodways shall be defined as follows:
 - a. The floodways as defined and delineated in the Flood Insurance Study for Baldwin County and/or the City of Gulf Shores.
 - b. Along small streams and watercourses the floodway shall be considered 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 Planning Commission that a lesser distance is adequate based on the watershed characteristics and probable storm runoff for the 100-year flood.
23. LAND SUBJECT TO FLOODING - for the purpose of these regulations, land subject shall be defined as follows:
 - a. Land identified as having special flood hazards by the Office of Federal Insurance and Hazard Mitigation and published in the latest revised edition of maps and charts contained in the Flood Insurance Study for Baldwin County and/or the City of Gulf Shores.
 - b. Along small streams and watercourses, land subject to flooding shall be considered to be all lands lying within one-hundred (100) feet of the top of the bank of the channel (measured horizontally) unless the developer demonstrated to the satisfaction of the Planning Commission that the property in question is free from the danger of inundation by the 100-year flood or can be made free of such flooding by appropriate remedial measures. The Planning Commission may require that a registered professional engineer design and approve such remedial measures.
24. LOT OF RECORD - Any validly recorded lot which complies with all currently applicable laws, ordinances, and regulations. (See also Nonconforming Lot of Record)
25. LUCIDO & OLIVER LINE - The rear property line of Lots having Gulfside Yards.; the Mean High Tide Line that is shown on the Lucido & Oliver surveys

approved by the Department of Conservation and recorded on Instrument Number 558806, Deed Page 2015 E, Slides 2015 E &F, 2016 A, B, C, D, & E in the Baldwin County Judge of Probate Office.

26. MASTER PLAN or LANDUSE PLAN - A comprehensive plan for development of the City of Gulf Shores and its environs, or any element thereof, and adopted by the Planning Commission pursuant to State Law.
27. MAJOR SUBDIVISION - all subdivisions not classified as minor subdivisions including but not limited to subdivisions of any size requiring any street, utilities, or other improvements.
28. MINOR SUBDIVISION - A subdivision where all proposed lots front on an existing improved street and does not require the installation of new streets, utilities or other public improvements; or, a subdivision with no lots less than five (5) acres in area, does not require the installation of a water or sewer system, has roadway access to each lot within an easement or right-of-way of adequate width capable of handling anticipated traffic volumes, and occupies a remote location where the absence of public improvements will not adversely affect future urban development of the City and its environs.
29. MONUMENT - A permanent object serving to indicate a limit to or mark a boundary.
30. NONCONFORMING LOT OF RECORD - Any lot, validly recorded in the public records of Baldwin County, which complied with all applicable laws, ordinances, and regulations in effect on the recording date. (See also Lot of Record).
31. ONE-HUNDRED YEAR FLOOD - A flood which has, on the average, a one (1) percent chance of being equaled or exceeded in any given year.
32. OPEN SPACE: Any parcel or area of land or water, either publicly or privately owned, set aside, dedicated, designated, or reserved for the private use or enjoyment of owners or occupants of land adjoining such open space, or for the public at large.
33. 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.
34. PLANNING DIRECTOR- The person employed under this title as designated by the Mayor & City Council of Gulf Shores.
35. PLANNING COMMISSION - the legally constituted Planning Commission established by the City of Gulf Shores.
36. PRELIMINARY PLAT - a plan and related materials submitted for preliminary approval as described in these regulations, indicating the proposed layout of a subdivision and its improvements.
37. PROBATE JUDGE - shall mean the Judge of Probate of Baldwin County, Alabama.
38. PUBLIC WORKS DIRECTOR – The person employed under this title as designated by the Mayor & City Council of Gulf Shores.

39. PUBLIC IMPROVEMENT - Any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs as: vehicular and pedestrian circulation systems, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility and energy services.
40. RECREATION, ACTIVE - Leisure activities, usually performed with others, often requiring equipment and taking place at prescribed places, sites, or fields including but not limited to sports, bicycling, walking, and playground activities.
41. RECREATION, PASSIVE - Activities that are less intensive, involve existing natural resources such as hiking, walking trails, fishing, and picnicking, and generally do not require a development site.
 - a. Open Space - In the context used herein, open space is intended to represent land area within a subdivision that is not platted for individual ownership and development but is platted with the intent of being owned by all owners of lots within the subdivision for their common enjoyment and benefit.
 - b. Mini Park - The smallest unit of open space (less than one acre) typically designed or intended to meet the limited recreational needs of small neighborhoods. Uses may include open play areas for active recreation and picnic areas, arbors, sitting areas, and nature observation for passive recreation.
 - c. Neighborhood Park - The basic unit of the private park system (typically one to ten acres), providing active and passive recreational opportunities for the neighborhood.
42. REGISTERED ENGINEER - an engineer properly licensed and registered in the State of Alabama.
43. REGISTERED LAND SURVEYOR - a land surveyor properly licensed and registered in the State of Alabama.
43. RESUBDIVISION - A combination, recombination, or splitting of previously recorded lots or tracts of contiguous land for the purpose of creating additional lots or enlarging existing ones.
45. RIGHT-OF-WAY - A strip of land used or intended to be used for passage of the general public, and occupied or intended to be occupied by a street, road, bicycle path, crosswalk, utilities, railroad or similar facility; and dedicated to the governing body in fee simple, or by other legal means such as prescription.
46. SIDEWALK - A path provided for pedestrian use, and usually located at the side of a road and within the street right-of-way.
47. STREET (Thoroughfare) - a dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting property or which provides a roadway connection between major parts of the City and its environs or which collects traffic from neighborhoods and moves it to the arterial street system. The term "street" shall include the following:

- a. Expressway or freeway - a street 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 commercial activities.
 - c. Collector - a street that 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 uses.
 - d. Minor - a street whose primary function is to service abutting land uses. Subdivision streets are normally classified as minor streets.
 - e. Marginal Access - a street 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 as well as to limit the number of direct driveway accesses to arterials for safety purposes.
 - f. Cul-de-sac - a street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.
48. **SUBDIVIDER** - any person who (1) having interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2), directly or indirectly sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot, parcel, site, unit, or plat in a subdivision, and who (3) is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.
49. **SUBDIVISION** - shall mean 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, lease or development. It includes the resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land being subdivided. It shall include all divisions of land involving the dedication of a new street or a change in existing streets. However, for purposes of these regulations the term "subdivision" shall not include divisions of land:
- a. which are created by order of any court in the State of Alabama or by operation of law; or
 - b. which create cemetery lots
 - c. Subdivision of land by court order including, but not limited to, judgments of foreclosure or probated family estates.
 - d. The public acquisition of property for the widening or opening of streets or for other public uses.

50. SUBDIVISION REGULATIONS - The Subdivision Regulations of the City of Gulf Shores, Alabama
51. WATER SUPPLY - The system made up of water sources, treatment, and conveyance systems to provide potable water to the community.
52. ZONING ORDINANCE - The Zoning Ordinance of the City of Gulf Shores, Alabama.

ARTICLE IV

SUBDIVISION APPLICATION PROCEDURE AND APPROVAL PROCESS

SECTION 4-1. APPROVAL OF SUBDIVISION PLATS REQUIRED

No subdivision plat of land within the jurisdiction of the City of Gulf Shores shall be filed or recorded nor shall any lots be sold and no utilities shall be extended to or connected with until the plat shall have been submitted to and approved by the City Planning Commission. Fees for subdivision applications shall be set by Resolution of the City Council.

SECTION 4-2. NOTICE OF PUBLIC HEARING

Notice of the public hearing for a final, minor or preliminary major subdivision plat shall be sent to the applicant or his authorized agent and to owners of land within 100 feet of the boundary of the proposed subdivision as their names appear in the records of the County Tax Assessor's Office. Such notice shall be sent by registered or certified mail of the time and place of such hearing not less than five (5) days before the date fixed therefor.

SECTION 4-3. SUBDIVISION CLASSIFICATION. A subdivision which is not classified as a minor subdivision by the Planning Director is a major subdivision and must conform to all requirements for preliminary plat approval before an applicant can file an application for final plat approval.

A minor subdivision is exempt from requirements for preliminary plat approval and, after receiving such classification from the Planning Director, the applicant may proceed directly to the filing of an application for final subdivision plat approval.

SECTION 4-4. PRELIMINARY PLAT APPROVAL PROCEDURE

A. Application for Preliminary Plat Approval. An applicant for a major subdivision shall file an application for approval of a preliminary plat in the office of the Planning Director no later than the date and time specified on the Planning Commission's Official Calendar for the particular meeting at which the application is to be considered. Once the Planning Director finds the application in compliance with these regulations and adequacy of form the preliminary plat shall be placed on the next regular Planning Commission agenda. The application shall:

1. Be made on forms available at the office of the Planning Director or City website together with the required application fee. (Any advertising costs will be billed separately to the applicant.)
2. Include the names and addresses of the owners of properties located within 100 feet from any boundary of the subdivision as they appear on the current tax records and as certified by the Baldwin County Revenue Commissioner.
3. Contain the name and address of a person or local agent to whom notice of a public hearing shall be sent.
4. Be accompanied by a current (maximum 45 days old at the time of application) title policy, title opinion or title report.

5. Be accompanied by a written report from each affected utility company (water, sewer, electric, natural gas, cable/internet and refuse provider) documenting their ability and willingness to serve said development.
6. Be accompanied by the minimum number of copies/digital plans of the preliminary plat and construction plans as described on the checklist available at the Planning & Zoning Department.

B. Preliminary Plat Submittal Requirements. The preliminary plat shall be prepared by a registered land surveyor at a convenient scale not more 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 and be of a form and format as specified by the City. The preliminary plat shall show the following:

1. The location of property with respect to surrounding property and streets, the names of all adjoining property owners of record, and the names of adjoining developments; the names of adjoining streets.
2. A current boundary/topographic survey of the property containing a complete legal description of the property, the size of the property in acres and square feet, contour intervals at a minimum of 1 foot, all areas classified as wetlands, and the mean high tide line for those properties that are adjacent to bodies of water, CCCL and Lucido and Oliver mean high tide line for Gulf front lots.
4. The date of the map, approximate true north point, scale, and name of subdivision. The subdivision name shall not duplicate or closely approximate the name of any other subdivision within the city.
5. Lot lines, building setback lines, finish ground elevation and areas of all proposed or existing lots. Dimensions shall be to the nearest one-hundredth (1/100) of a foot and angles within plus or minus five (5) seconds.
6. The location and size of existing and proposed streets, alleys, easements, and other public ways, water bodies, streams, wetlands, buildings, drainage ditches, and other features as required by the Planning Commission.
7. The location and dimensions of all property proposed to be set aside for parks or other recreational uses, schools or other public or private reservation, with designation of the purpose thereof, and conditions if any, of the dedication or reservation.
8. Potential connections of open space with existing and planned greenspace, trails, and open space on adjacent properties.
9. Sufficient data acceptable to the Planning Director to determine readily the location, bearing, and length of all lines, and to reproduce such lines upon the ground; the location of all proposed monuments.
10. All lots in each block shall be consecutively numbered and blocks shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively throughout the several additions.
11. Plans shall include a site data box including but not limited to:

- a. Zoning of the property
- b. Proposed use of all lots
- c. Proposed building setbacks
- d. Acreage of total tract
- e. Total number of lots
- f. Smallest lot size
- g. Largest lot size
- h. Linear feet of streets
- i. Size of open space/natural areas expressed in square footage/acres and as a percentage of the total tract
- j. Explanation of drainage easements, if any.
- k. Explanation of site easements, if any.
- l. Explanation of reservations, if any.

12. Landscape Plan including but not limited to all protected tree locations, trees which are to be preserved and removed, proposed tree and plant locations, plant schedule, fence locations, and detail of fences to be installed .

13. Traffic Impact Study for residential subdivisions containing more than 50 dwelling units exiting onto City, state or county roadways will be required to hire a qualified engineer to perform a Traffic Impact Study to determine if additional traffic improvements are warranted in a format and scope as required by city staff. The City may require offsite improvements above and beyond what is recommended in the Traffic Impact Study if determined to be in the best interest for public safety.

14. Any area within or adjacent within 100 feet to the proposed subdivision subject to inundation by the 100-year flood as defined herein, or subject to periodic inundation from storm drainage overflow or ponding, shall be clearly shown and identified on the plat.

15. Where a phased subdivision is proposed the plat shall include all phase lines and the continuity of development proposed for the entire project.

C. Construction Plans. At the time of submission of the preliminary plat, the applicant shall also submit construction plans for all required improvements, per each phase of construction. All plans shall meet the minimum standards of design and general requirements for construction set forth in these regulations. Construction plans shall be drawn at a scale of not less than one (1) inch equals one-hundred (100) feet. Map sheets shall be of the same size as the preliminary plat. Construction plans shall be prepared and signed and sealed by a registered engineer and include the following:

1. Soils. The plat shall show the location and results of the test borings of the subsurface condition of the tract to be developed. If the soil analysis reflects that the area contains hardpan, peat, muck or other unsuitable or unstable materials, the Public Works Director shall require such additional design and construction as necessary to assure proper drainage and development of the area. Test locations shall be mutually determined by the Developer's engineer and the Public Works Director and shall be recorded as to location and result on the construction plans.

2. Street plan containing the following information:

- a. Location, dimensions, names and designation of private or public for all proposed and existing streets or rights-of-way and easements. Street names shall not duplicate or closely approximate the name of any other street within the city.

- b. Plan and profile of all streets, showing natural and finished grades drawn to a scale of not less than one (1) inch equals fifty (50) feet horizontal and one (1) inch equals five (5) feet vertical.
 - c. Cross sections of proposed streets at a minimum of one hundred (100) foot stations.
 - d. Curve data for the centerline of each street: delta, tangent, and radius.
 - e. Location of all proposed sidewalks, crosswalks, bike paths and multi-use trails.
 - f. If any Federal, state or county right-of-way is proposed to be improved or modified, a detailed right-of-way improvements plan, with the written approval of the responsible official shall be submitted.
3. Storm drainage plan containing the following information:
- a. Location of proposed drainage ways, streams, and ponds in the subdivisions.
 - b. Master Lot Grading Plan showing the overall drainage, grading, house type, etc. in a plan of subdivision. This plan must also show the directions of the minor and major storm flows within the limits of the development. Master lot grading plans shall show existing roadway centerline and grade elevations, the proposed elevation of the lowest floor, proposed driveway material and location, proposed drainage culvert size and location if applicable, swale locations and an indication of the proposed drainage flow directions of the site including outfall locations from the property. Elevations must be based on the National American Vertical Datum of 1988. If roof gutters are to be utilized to control roof runoff, the location of the downspouts must be indicated on the lot grading plan. For projects that lie within a designated flood plane, the lot grading plan must depict the location and zoned designation of the special flood hazard area(s), the elevation of the proposed lowest floor in AE zones, or the elevation of the proposed lowest horizontal structural member and V zone certification in VE zones. Additional information may be required, such as topographic and wetland information as warranted by specific site conditions and project characteristics.
 - c. 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.
 - d. Show construction details of typical manholes, connections, and other drainage structures proposed.
 - e. 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.
 - f. Location of easements and rights-of-way for drainage ways and maintenance access thereto.
 - g. Typical cross sections of each drainage way.
 - h. Direction of water flow throughout subdivision and compatibility with existing drainage.
4. Sanitary sewer plan, if applicable, containing the following information:
- a. Location and size of all existing and proposed sewers in the subdivision and tie points of the subdivision. Location of sewer laterals.
 - b. Direction of flow of each sewer line.
 - c. Location of each manhole and other sewage system appurtenances including lift stations, oxidation ponds, and treatment plants, if any.
 - d. Show construction details of typical manholes, connections, and other sewage structures.
 - e. Plan and profile of sewage system.
5. Water distribution plan showing the location and size of all elements of the water distribution system including pipes, valves, fittings, hydrants, high pressure pumping equipment, etc.

6. Electrical distribution plans showing the location of all poles or subsurface facilities serving each lot or parcel of land within the subdivision.
7. Plans for other utility systems, including telephone, cable/internet and natural gas, showing the location of all subsurface facilities, serving each lot or parcel of land within the subdivision.
8. Survey data showing the dimensions and bearings of the boundaries of the subdivision; section and corporate lines; and contours at one (1) foot intervals based on the City of Gulf Shores Datum or National Geodetic Survey Sea Level Datum. In some cases the City Engineer may require spot elevations in sufficient number to provide necessary drainage information.

D. Planning Commission Hearing and Review. The Planning Commission shall hold a public hearing for the purpose of determining conformity of the preliminary plat with these regulations and to permit adjoining property owners to state their opinion.

Within thirty (30) days after the public hearing, the Planning Commission by resolution shall approve, disapprove, or approve subject to required modifications. If the plat is disapproved, the reasons for such disapproval shall be stated upon the records of the Planning Commission. If approved subject to modifications, the nature of the required modifications shall also be indicated in the records of the Planning Commission. Failure of the Planning Commission to take action on the preliminary plat within thirty (30) days shall be deemed approval of the preliminary plat and a certificate to that effect shall be issued by the Planning Commission on demand; provided, however, that the applicant for the Planning Commission's approval may waive this requirement and consent to an extension of such period.

When the Planning Commission denies a preliminary plat, no further subdivision application affecting the same parcel or a portion thereof will be considered by the Commission within 6 months from the date of the original public hearing unless the applicant has complied the Planning Commission's required changes and/or additions, reasons for denial.

No preliminary plat shall be approved by the Planning Commission until each utility affected has submitted a written report to the Planning Commission stating whether all provisions affecting the service to be provided by such utility are reasonable and adequate.

E. Effect of Preliminary Plat Approval.

Approval of a Preliminary Plat shall not constitute acceptance of the plat of the proposed subdivision. No construction activity of any kind, including grading, clearing, removal of trees, grubbing, installation of improvements, and buildings, shall begin on any land subject to these Regulations until a preliminary plat has been approved by the Planning Commission, all required Federal, State, and County permits have been obtained, and a Land Disturbance Permit has been issued by the City.

F. Effective Period of Preliminary Approval. Preliminary approval by the Planning Commission shall be binding for two (2) years unless a final plat has been filed or the Planning Commission, for good cause, grants an extension of the two (2) year period.

G. Revocation. Failure to provide for traffic control, safety, environmental protection controls and/or best management practices and restoration of the site shall be grounds for the immediate suspension of Preliminary Plat approval and/or issuance of a stop work order. The Planning Commission shall have the authority to reinstate Preliminary Approval when it is satisfied that conditions resulting in suspension have been mitigated.

H. Model Homes. For the purpose of allowing the early construction of model homes in a subdivision, the Planning Commission, in its discretion, may permit a portion of a major subdivision involving no more than five (5) lots to be created in accordance with procedures for approving a minor subdivision, set forth in Subsection 4-5. The model home lots to be approved in this manner must derive access from an existing city, county or state highway. The sketch plan for the minor subdivision shall be submitted to the Planning Commission simultaneously with the preliminary plat for the entire subdivision. Subsequent to preliminary approval, the model(s) may be constructed, subject to such additional requirements that the Planning Commission may establish.

SECTION 4-5. FINAL PLAT APPROVAL PROCEDURE

A. Application Procedure for Minor Subdivision Plat. After a proposed subdivision has been classified as a minor subdivision, the applicant may file with the Planning Director an application for final approval of the minor subdivision plat. The application shall:

1. Be made on forms available at the office of the Planning Director or City website together with the required application fee. (Any advertising costs will be billed separately to the applicant.)
2. Include the names and addresses of the owners of properties located within 100 feet from any boundary of the subdivision as they appear on the current tax records and as certified by the Baldwin County Revenue Commissioner.
3. Contain the name and address of a person or local agent to whom notice of a public hearing shall be sent.
4. Be accompanied by a current (no more than 45 days old at the time of application) title policy, title opinion or title report.
5. Be accompanied by a written report from each affected utility company (water, sewer, electric, natural gas, cable/internet and refuse provider) documenting their ability and willingness to serve said development;
6. Be accompanied by the minimum number of copies/digital plans as described on the checklist available at the Planning & Zoning Department.

B. Application Procedure for Major Subdivision Plat. Upon satisfactory completion of all improvements specified in the Preliminary Plat, or by submission of a financial guarantee of performance as specified herein, the applicant shall file with the Planning Director an application for final approval of a subdivision plat. The application shall:

1. Be made on forms available at the office of the Planning Director or City website together with the required application fee.
2. Be accompanied by the minimum number of copies/digital plans as described on the checklist available at the Planning & Zoning Department including an engineering plan, or "as built" plan, giving details of construction, location, and size of underground utilities and their above ground components in a form and format as required by the City. If installation of improvements is completed under a financial guarantee of performance, the engineering plans and digital format files shall be submitted to the City upon request of release of the financial guarantee of performance by the applicant.

3. Be accompanied by all formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks, and easements, in a form approved by the City's legal counsel.
4. Be accompanied by the financial guarantee of performance, if required, in a form satisfactory to the City's legal counsel and in an amount sufficient to guarantee the actual construction and installation of all proposed improvements.
5. Be accompanied by letters from each affected utility approving the construction of the subdivision.
6. Comply in all respects with the Preliminary Plat.

C. Final Plat Submission Requirements. The final plat shall be prepared by a registered 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 be of a form and format as specified by the City. The final plat shall show the following:

1. The final plat shall contain all of the information, except for any changes or additions required by resolution of the Planning Commission, as shown on the preliminary plat.
2. The relation of the land so platted to the Government Survey of Baldwin County. The "point of beginning" as referred to in the written description shall be so indicated.
3. The exact position of the permanent points (corner ties, monuments, property markers) shall be indicated on the plat by a small circle "o".
4. Endorsements, dedications, and certificates as listed in Appendix A.
5. Covenants and/or restrictions, as approved by the Planning Commission, governing the use and development of lots and which are to be recorded with the final plat in the Office of the Probate Judge of Baldwin County as condition for final plat approval.
6. Copies of all Federal and State permits required for construction of the development shown on the final plat.
7. Engineering Plan. At the time of final plat approval, the applicant shall submit an engineering plan, or "as built" plan, giving details of construction and locations of the improvement which have been installed. The primary purpose of the engineering plan is to provide the City with a record of the location, size, and design of underground utilities for the City's use in the course of maintaining such improvements. If the installation of improvements is completed under a financial guarantee of performance, the engineering plan shall be submitted to the Planning Commission upon request of release of the financial guarantee of performance by the applicant.
8. The design engineer, and utility providers shall submit inspections and tests reports during construction of the subdivision improvements to ensure conformance with approved design.

D. Planning Commission Hearing and Review

1. Final Approval. Upon satisfactory installation of all conduit for electrical and services as verified by such utility service providers, that such improvements shall constitute satisfactory completion of all such utility installations as required by the Subdivision Regulations for the purpose of obtaining Final Plat approval. An applicant may gain final approval and record the Plat in the absence of complete installation of all required components of such systems including but not limited to wires, pedestals, transformers, street lights, and other improvements have either been paid in advance or otherwise guaranteed in a manner acceptable to such utility providers(s).
2. The Planning Commission shall approve, disapprove, or approve subject to required modifications. If the plat is disapproved, the reasons for such disapproval shall be stated upon the records of the Planning Commission. If approved subject to modifications, the nature of the required modifications shall also be indicated in the records of the Planning Commission. Upon the decision of the Planning Commission a letter shall be transmitted to the applicant regarding the official decision.
3. Recording of the Final Plat. When the Final Plat of a major or minor subdivision is found to be in conformity with these regulations, and all conditions of Planning Commission approval, the Chairman of the Planning Commission, Planning Director, and the Public Works Director shall endorse approval on the Final Plat and the plat may be recorded.

The applicant shall file with the Planning Department an electronic copy of the Final Plat as recorded in the Office of the Judge of Probate of Baldwin County and an as-built drawing of the subdivision in a file and format as specified by the City.

4. Effect on Maintenance. Approval of the Final Plat by the Planning Commission shall not be deemed to constitute or affect an acceptance by the public of the dedication of any street or other proposed public ways or lands shown on the Final Plat and located within the corporate limits of the City of Gulf Shores. Acceptance of public improvements and dedicated lands requires a separate approval of the City Council.

E. Expiration of the Final Plat

Approval of the Final Plat by the Planning Commission shall be null and void if such Final Plat is not recorded in the office of the Judge of Probate of Baldwin County within sixty (60) days after the date of approval or twenty four (24) months for subdivisions completed under a performance assurance, unless an extension is granted by the Planning Commission.

F. Sectionalizing Major Subdivision Plats. Prior to granting final approval of a major subdivision plat, the Planning Commission may permit the plat to be divided into two or more sections and may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the plat. The Planning Commission may require that the financial guarantee of performance be in such amount as is commensurate with the section or sections of the plat to be filed and may defer the remaining required financial guarantee of performance principal amount until the remaining sections of the plat are offered for filing. The developer may also file irrevocable offers to dedicate streets and public improvements in the sections offered to be filed and defer filing offers of dedication for the remaining sections, subject to such conditions as may be imposed by the Planning Commission. In the event of approval of sectionalizing, the entire approved subdivision plat including all sections shall be filed within ninety (90) days after date of final approval in the

office of the Planning Director and such sections as have been authorized by the Planning Commission shall be filed in the Office of the Judge of Probate, for Baldwin County.

G. Administrative Approval. Minor changes to a subdivision may be authorized by the Planning Director and Planning Commission Chairman to overcome unanticipated hardships or conditions, provided that such minor changes:

1. are not inconsistent with provisions of the subdivision regulations;
2. are not inconsistent with the design concept of the approved subdivision plat;
3. do not add additional lots.

Other changes or amendments to an approved subdivision plat shall be submitted to the Planning Commission for approval.

ARTICLE V

ASSURANCE FOR COMPLETION OF IMPROVEMENTS

SECTION 5-1. INSTALLATION OF REQUIRED IMPROVEMENTS

- A. Developer Responsibilities. The Developer shall be responsible for the construction of all required improvements within the subdivision. Satisfactory completion of improvements shall be certified by the City or, if the subdivision is not within the City's corporate limits but within its planning jurisdiction, by the City and in accordance with the procedures set forth in the *Baldwin County Subdivision Regulations*, latest edition. Any land offered for dedication for any public purpose, and any improvements thereon, shall be free and clear of all liens and encumbrances. Before the final plat is signed by the Chairman of the Planning Commission, all applicants shall be required to satisfactorily complete all improvements specified in the final subdivision plat and to submit a financial guarantee for the maintenance of streets, easements, and land intended for public purposes, or provide a financial guarantee of performance prior to completion of the improvements.
- B. Financial Guarantee of Performance. If a developer wishes to record a Final Plat prior to the completion of all required improvements, he/she may request that the City accept a financial guarantee of performance for the improvements not completed and approved.

SECTION 5-2. FINANCIAL GUARANTEE OF PERFORMANCE

- A. Financial Guarantee of Performance Surety. A financial guarantee of performance may be requested by the developer if said developer wishes to record a Final Plat prior to the completion of some of the required improvements. The financial guarantee shall be in the form of irrevocable letter of credit or cashier's check and shall meet the following requirements:
1. *Acceptance of Surety.* The surety must be reviewed and approved by the City; and
 2. *Value of Surety.* The surety shall be of an amount equal to 150 percent of the cost (as estimated by an independent source and approved by the Public Works Director or his/her designee) of installing all incomplete required improvements, including but not limited to grading, paving of the streets, sidewalks, installation of stormwater structures, installation of all required utilities, landscaping, and fees encountered during construction of improvements.

If a utility provider agrees to accept a surety for required improvements related to its utility, the Public Works Director may reduce the amount of required surety by said amount. A surety must be valid for a period of at least seven-hundred-twenty (720) days from the date of acceptance of said surety by the City.

- B. Failure to Complete Work. If within seven-hundred-twenty (720) days of the date of acceptance of surety by the City, the developer has not completed all necessary improvements, or if in the opinion of the Public Works Director or his/her designee, said improvements have not been satisfactorily installed within that timeframe, a

recommendation shall be prepared and submitted to the City Council for approval to take such steps as may be necessary to require performance under the surety.

If the construction of all required improvements is not completed within seven-hundred-twenty (720) days of date of acceptance of surety by the City, the developer may request that an extension be granted. The maximum extension period is three-hundred-sixty-five (365) days. This must be done in writing sixty (60) days prior to the expiration date. Before granting an extension, the City Council may require that the amount of the surety be increased to reflect the current value of the required improvements. The surety validation period must also be extended for the requested extension time frame.

C. Inspection Requirements. The design engineer and/or his designee shall perform inspections during construction of the subdivision improvements to ensure conformance with approved design and shall submit a written report to the Director of Public Works resulting from each inspection. At a minimum, inspections will be performed at the following construction milestones:

1. Commencement of land disturbing activities; the engineer shall inspect the installation of erosion control devices.
2. Street subgrade preparations; the engineer shall inspect subgrade suitability and compaction.
3. Placement of all drainage culvert pipes, manholes and other drainage structures.
4. Street sub-base preparations; the engineer shall inspect subgrade suitability and compaction.
5. Street base course placement; the engineer shall inspect base course placement and compaction.
6. Street wearing surface placement; the engineer shall inspect surface course placement and compaction.
7. Final inspection; the engineer shall inspect all required improvements to the subdivision and verify that they have been completed.

The City shall provide for inspection of required improvements during construction and insure their satisfactory completion. If the Director of Public Works and/or his designee finds upon inspection that any of the required improvements have not been constructed in accordance with City or County construction standards and specifications, as applicable, the applicant and/or the applicant's surety company shall be responsible for conforming construction to required standards prior to final plat approval or release of performance surety.

An inspection report signed by a representative from the Public Works Department will be required at least once during each of the construction milestones listed above in Section 5-2.C.

The design engineer's inspection report shall contain all results from testing laboratories. Compaction tests shall be performed on subgrade, sub-base, base course, and wearing surfaces at a minimum; the design engineer shall state the requirement for this testing on the design drawings. The design engineer's final inspection report and a certification of improvements for the subdivision shall be submitted to the Director of Public Works prior to final inspection by the City.

D. Certification of Improvements. Upon completion of the improvements, the Licensed Engineer and the applicant shall complete, sign, and submit to the Public Works Director a Certification of Improvements form stipulating the following:

1. That all required improvements are complete;

2. That these improvements are in compliance with the minimum standards specified for their construction;
 3. That the applicant knows of no defects from any cause in these improvements; and
 4. That these improvements are free and clear of any encumbrance or lien.
- E. Release of Guarantee. Upon inspection and approval by the Public Works Director, issuance of a completion certificate, submittal of certified As-builts and Final Test Reports, and in accordance with these regulations, the City shall authorize the release of the financial guarantee of performance.

SECTION 5-3. MAINTENANCE OF ROADWAYS AND DRAINAGE IMPROVEMENTS

The purpose of this section is to provide a defined methodology for the City Council to accept subdivision roadways and drainage improvements within dedicated public rights-of-way for maintenance once constructed by a subdivision developer. This section is also intended to further protect the interests of the citizens of the City and to identify the parties responsible for maintenance for developments with rights-of-way that are to remain private.

Right-of-way dedicated to the public by final plat may only be accepted in whole or in part by the City by resolution of the city council provided that no such acceptance may occur earlier than seven-hundred-twenty (720) days after the date of acceptance and approval of the Maintenance Surety Document. For subdivision developments containing dedicated public rights-of-way, the City will require a Maintenance Surety Document to warrant the materials and workmanship of said required roadway and drainage improvements by the owner, developer and/or contractor for a minimum period of seven-hundred-twenty (720) days.

- A. Financial Guarantee of Maintenance Surety. A Maintenance Surety Document shall be approved prior to the release of any Performance Surety or prior to the recordation of any final plat of subdivision, where no Performance Surety was provided due to work being completed. The Maintenance Surety shall be submitted after the issuance of a completion certificate for 100% completion of all required improvements within a final subdivision plat, and shall provide warranty against defect in the manufacture, construction, or installation of improvements.

The Maintenance Surety Document is a financial guarantee of materials and workmanship of the roadway and drainage improvements within the public rights-of-way. The Maintenance Surety Document shall be in the form of irrevocable letter of credit or cashier's check, and shall without limitation meet the following requirements:

1. *Itemized Engineer's Cost Estimate.* Prior to submitting the necessary Maintenance Surety Document, the design engineer shall submit the *Itemized Engineer's Cost Estimate* to the Public Works Director. The Public Works Director will review the *Itemized Engineer's Cost Estimate* and either make comments accordingly or contact the Owner to coordinate receipt of said Maintenance Surety Document.
2. *Acceptance of Maintenance Surety Document.* The surety must be reviewed and approved by the City;
3. *Value of Maintenance Surety Document.* The Maintenance Surety Document shall be of an amount equal to or greater than twenty (20) percent of the cost (*Itemized Engineer's Cost Estimate*) of the full construction of the required

roadway and drainage improvements within the public rights-of-way, including but not limited to, grading, paving of the streets, sidewalks, curbing and installation of stormwater structures. When the Public Works Director identifies potential problems, conditions or reasons for further protection of the City and public funds a greater amount may be required by the Public Works Director; and

4. *Term of Maintenance Surety Document.* A Maintenance Surety Document must state that it is “valid for a period of time” that is not less than seven-hundred-twenty (720) days. The warranty period will begin to run upon acceptance of the Maintenance Surety Document.

B. Maintenance Procedure. The following procedure shall be followed during the warranty period established by the approved Maintenance Surety Document.

1. If maintenance is necessary as determined by the Public Works Director, and it is determined that the necessary repairs are urgent, the repairs may be made by the City or other entity as determined by City. The Owner (as identified in the *Maintenance Surety Document*) will be sent an itemized invoice of the said repairs and will be given the opportunity to immediately reimburse the City for the cost of said repairs. If the said Owner does not reimburse the City for said repairs within 30 days from the date of the invoice, then the Public Works Director will take the necessary actions to collect from the surety.
2. If maintenance is necessary as determined by the Public Works Director, and it is determined that the necessary repairs are not urgent, the Owner (as identified in the *Maintenance Surety Document*) will be sent a notice and given 15 days from the date of receipt of such notice to make the necessary repairs. The contractor will be required to obtain a Land Disturbance Permit from the Public Works Department, prior to making such repairs. If the said Owner does not make the necessary repairs, then said repairs may be made by the City or other entity as determined by the City, and the Owner (as identified in the *Maintenance Surety Document*) will be sent an itemized invoice of the said repairs and will be given the opportunity to immediately reimburse the City for the cost of said repairs. If the said Owner does not reimburse the City for said repairs within 30 days from the date of the invoice, then the Public Works Director will take the necessary actions to collect from the surety.

C. Acceptance of Public Right-of-Way. After the warranty period has expired, and the Public Works Director has determined that the materials and workmanship of the roadway and drainage improvements within the public rights-of-way are acceptable for maintenance by the City, the owner may submit a request to the Public Works Director for the City to assume maintenance of the rights-of-way.

1. *Submittal Requirements.* The owner shall submit the following items, prior to consideration by the City Council to accept maintenance of roadway and drainage improvements within a subdivision.
 - a. A *Subdivision Roadway and Drainage Improvement Acceptance Agreement* form completed and signed by the Owner, Developer and Contractor and including all necessary Exhibits; or
 - b. For developments with roadway and drainage improvement not dedicated as public, the Developer must complete and submit the *Private Maintenance of Subdivision Roadways and Drainage Improvement* form.

2. *Review and Acceptance Procedure Guidelines.*

- a. Once the *Subdivision Roadway and Drainage Improvement Acceptance Agreement* form is submitted, the Public Works Director will then submit to the City Council for consideration of accepting maintenance of the roadway and drainage improvements in the public rights-of-way subject to the terms of the *Subdivision Roadway and Drainage Improvement Acceptance Agreement*.
- b. The City Council may take action to accept or reject the roadways and drainage improvement for maintenance subject to the terms of the *Subdivision Roadway and Drainage Improvement Acceptance Agreement*.
- c. If accepted, the City will begin to maintain roadways and drainage improvements within the platted public rights-of-way, and the Maintenance Surety Document will be released.
- d. These provisions are meant to be minimum guidelines for the Applicant, and are in no way meant to restrict the City from making other necessary requirements as the situation may warrant.

ARTICLE VI

DESIGN AND IMPROVEMENT STANDARDS

SECTION 6-1. GENERAL REQUIREMENTS

A. Conformance to Applicable Rules and Regulations. In addition to the requirements established herein, all subdivision plats shall comply with all other Federal, State, County, and City regulations.

B. Preservation of Natural Features and Amenities

Existing features which would add value to residential development or which have exceptional amenity value, such as trees, watercourses, water bodies, beaches, dunes, wetlands, and similar assets, should be carefully considered in subdivision design. Reasonable requirements for their preservation may be specified by the Planning Commission.

C. Land Unsuitable for Development

Land which the Planning Commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, adverse soil conditions, or other conditions which would be harmful to the safety, health, and general welfare of present or future inhabitants shall not be developed unless such problems can be reasonably overcome to the satisfaction of the Planning Commission and without undue harm to the environment.

Land within any floodway, as identified in the latest editions of the Flood Insurance Rate Maps prepared by the Federal Insurance Administration must be reserved solely for the passage of floodwaters. Development within such floodways shall be reserved solely for essential public purposes designed and constructed so that the flow of floodwaters is unimpeded. In other flood prone areas, development shall conform to standards established by the Federal Emergency Management Agency.

All jurisdictional wetlands shall comply with the requirements of the Wetland Protection regulations found in the City of Gulf Shores Code of Ordinances.

SECTION 6-2. BLOCK & LOT STANDARDS

A. Block Layout. The length, width, and shape of blocks shall be determined with due regard to:

1. Provisions of adequate buildings sites suitable to the special needs of the type of use contemplated.
2. Zoning requirements as to lot size dimensions.
3. Need for convenient access, circulation, control, and safety of vehicular and pedestrian traffic.

4. Block lengths shall not be greater than 1,320 feet, nor less than 500 feet, between intersecting streets except that, for good cause, the Planning Commission may approve greater or lesser lengths.
5. In long blocks, the Planning Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic.
6. 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 a beach, body of water, water way, wetland area, major streets, nonresidential development, or other condition preventing a second tier of lots.
7. Blocks for Commercial or Industrial Use. Blocks intended for commercial or industrial use shall be designed specifically for such use, with consideration of off-street loading and unloading, and off-street parking facilities, and access thereto.

B. Lot Layout. The layout of lots shall be such that there will be no foreseeable difficulties, for reasons of topography, soils, natural drainage, or other conditions, in securing building permits to build on all lots in compliance with the Zoning Ordinance, and all other applicable regulations and in providing driveway access to building on such lots from an approved street. Lots shall comply with the following standards:

1. Within the City of Gulf Shores, minimum lot area within a subdivision shall be the minimum lot area established for the zoning district in which the subdivision is located.
2. For subdivisions located outside the zoning jurisdiction of the City of Gulf Shores and outside the zoning district of Baldwin County, minimum lot areas for residential lots shall be:
 - a. 11,000 square feet where public water and sewers are provided.
 - b. 15,000 square feet where only public water is provided.
 - c. 20,000 square feet where public water and sewer are not provided.
3. For subdivisions located outside the zoning jurisdiction of the City of Gulf Shores but inside the zoning jurisdiction of Baldwin County, minimum lot areas for residential lots shall be as required by the underlying zoning district of Baldwin County or the minimum lot area of the comparable city zoning district (as specified in Article 3 of the Zoning Ordinance) if the property were to be annexed, whichever is the more restrictive.
4. Area and dimensions of lots reserved or laid out for commercial or industrial purposes shall be adequate to provide for off street and loading for the type of use contemplated;
5. Double Frontage Lots. Double frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries, or to overcome disadvantages of topography or the shape of the tract being subdivided.

6. Side Lot Lines. Side lot lines should be at right angles to straight street lines and radial to curved street lines.
7. Street Frontage. Each lot within a subdivision shall front upon a public street having a minimum right-of-way width of 50 feet except where an equivalent private street has been approved by the Planning Commission with adequate safeguards for its continuous maintenance.
8. Depth. Excessive depth in relation to width shall be avoided. A proportion of 3 to 1 will normally be considered maximum.

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

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 Government Survey of Baldwin County. The subdivision corner shall be marked with a monument and shall appear on the map with description of bearings and distances from the Government Survey Corner, to an accuracy of 1:5,000.
2. Monuments - The external boundaries of a subdivision shall be monumented in the field by concrete monuments not less than thirty (30) inches in length, not less than four (4) inches in diameter and marked on top with an indented cross, brass plug or other durable material securely embedded. These monuments shall be placed not more than 1,400 feet apart in any straight line and at all corners, at each end of all curves, at the point where a curve changes its radius, and at all angle points. Monuments shall be set flush with the finished grade.

Monuments, as described above shall be installed at least two (2) corners of each block. The surveyor shall employ additional monuments if and when required. All monuments shall be placed to an accuracy of 1:5,000.

3. Property Markers. All lot corners not marked with a monument shall be marked with a steel pipe not less than three-fourths (3/4) inch diameter and at least thirty (30) inches in length. A marker shall be set at a point of curvature, point of intersection, property corner, point of tangency, and reference point unless a monument has already been placed at said points. Additional markers shall be placed at other points as required. All markers shall be driven into the ground so as to be flushed with the finished grade. All markers shall be placed to an accuracy of 1:5,000.
4. Accuracy. A certificate of accuracy and a closure sheet by a land surveyor licensed to practice in the State of Alabama shall be submitted on the final plat.

G. Corner Lots. Dimensions of corner lots shall be large enough to allow for erection of buildings observing the minimum front yard setback from both streets.

SECTION 6-3. STREET PLAN

A. General Requirements

1. Frontage on Improved Roads. No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing state, county, or City street or highway or unless the subdivider provides a street connection from the subdivided land to an existing state, county or city street or highway in a

manner acceptable to the Planning Commission. If the existing frontage street or highway lacks sufficient right-of-way to meet the requirements of these regulations, additional right-of-way may be required by the Planning Commission.

2. Grading and Improvements. Streets shall be graded and improved to conform to construction standards of the City of Gulf Shores and shall be approved as to design and specifications by the Public Works Director based upon construction plans submitted with the preliminary plat.
3. Construction in Muck or Clay Areas. When streets or alleys are to be constructed in muck areas, the muck or peat shall be completely removed from that portion of the right-of-way lying between two lines parallel to the centerline and located 10 feet beyond the edge of the proposed pavement on each side. When plastic clays are encountered, they shall be removed within the roadway area 1 foot below the subgrade extending horizontally to the outside edge of the shoulder area. The design of streets proposed in excessive muck areas shall be considered on an individual basis.
4. Street Layout. The street layout of a subdivision shall provide for the continuation and connection of streets between existing streets and adjacent properties whenever such continuation and connection is necessary for the convenient movement and circulation of traffic, effective police and fire protection, access by public service vehicles, and efficient provision of utilities; and in accordance with the policies of the Master Plan.
5. If the adjacent property is undeveloped, the right-of-way of a street to be continued shall be extended to the property line. A temporary turnaround, or a T or L shaped turnabout, shall be provided, with a notation on the subdivision plat that land outside the normal right-of-way shall revert to the abutting properties whenever the street is continued and connected to the adjacent property. The Planning Commission may limit the length of such temporary dead-end streets in accordance with the design standards of these regulations.
6. Driveway Curb Cuts. Corner and double frontage lots shall take access from the minor streets unless otherwise approved by the Public Works Director. Where narrow street widths are allowed, the Public Works Director will require wider driveway radii to avoid lane encroachment by entering or existing vehicles.
7. Access Management. Because frequent driveways, median breaks and curb cuts can be a severe impediment to the proper functioning of major streets the Planning Commission may require that access to such street be limited by one of the following means:
 - a. The subdivision of lots so as to back onto the primary arterial and front onto a parallel local street; no access shall be provided from the primary arterial to individual lots. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on an arterial street.
 - 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 major arterial.
 - c. Cross-access easements, minimum driveway separations, shared driveways and frontage roads

8. Street Names. New street names shall not duplicate or be similar to existing street names and for proposed streets which are in alignment with existing streets the street name shall be projected. 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 and other noncontinuous streets - - - - - Lanes, Places, Courts, Drives

Circular or "U" shaped streets- - - - - Circles

9. Street Name and Regulatory Signs. Street name signs are to be placed at all intersections within or abutting the subdivision the type and location of which shall be approved by the City .

10. Street Lights. Installation of street lights shall be required in accordance with design and specification standards approved by the City .

11. Reserve Strips. Private reserve strips controlling access to streets shall be prohibited.

12. Half-Streets. Where there exists a dedicated or platted half street adjacent to the tract to be subdivided, the other half shall be platted. New half-streets or half alleys shall be prohibited.

13. Private Streets. There shall be no private street platted within a subdivision where abutting properties will be sold to the public except in instances where the Planning Commission establishes that the maintenance of private streets will be adequately and continuously financed by assessments against adjoining properties established by covenants and administered through a home owners association. Such covenants shall provide for flexible maximum assessments so that adjustments may be made for inflationary price rises and that the assessments shall be a charge or lien on the land. Private streets shall be designed so that they will in no way interfere with the logical extension of the street system serving the surrounding area or with the extension of arterial streets. Private streets shall be approved as to design in accordance with the standards in this section.

14. Additional Width on Existing Streets. Unless otherwise waived by the Planning Commission, subdivisions that adjoin existing streets with inadequate right-of-way shall dedicate additional right-of-way to meet the minimum street width requirements as follows:

- a. The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing street.
- b. When the subdivision is located on only one side of an existing street, a minimum of one-half of the required right-of-way from the centerline of existing street shall be provided.

- c. When a subdivision is located on a County Road additional right-of-way or may be required the future expansion of the road or installation of utilities, drainage, sidewalks or other such improvements.

15. Off-site and Public Improvements. The policy of the City of Gulf Shores Planning Commission is to require subdivision developers to design and construct to City standards roadway improvements required as a result of the projected traffic impact or needs that their completed development will have on the state highway, county, or city roads (including private roads or easements) used to provide access to that development or, at the option of the City, pay the City to design and construct these improvements. This policy applies, but is not limited to, the design and construction of left turn lanes, deceleration lanes, sidewalks and bikeways, drainage culverts and channels, signage, traffic striping and marking, and traffic signals. In all cases, developer payments will be required for all improvements but will not include parts of improvements funded by the Alabama Department of Transportation (ALDOT) or other state or federal agencies.

The dimensional standards and construction requirements for deceleration and left turn lanes shall conform to AASHTO & Alabama Department of Transportation Standards where feasible. The typical lengths are as follows:

**DECELERATION/LEFT TURN LANE
Sheet No. 117 AIDOT Drawings**

Design Speed	Taper	Lane	Stop Condition INCL Taper
40 MPH	190'	135'	325'
50 MPH	230'	195'	425'
55 MPH	250'	215'	465'
60 MPH	270'	230'	500'
65 MPH	290'	260'	550'
70 MPH	300'	300'	600'
75 MPH	315'	335'	650'
80 MPH	330'	370'	700'

Where street grade, curvature, or other factors affect taper and lane length to a degree which reasonably precludes using standard lengths, the City engineer (in conjunction with the County Engineer where needed) shall stipulate reduced taper and lane lengths where, in his judgment, it is necessary to do so.

Waivers from these guidelines shall be approved on a case by case basis by the Planning Commission based upon need demonstrated by City staff and/or the applicant.

Developers shall be required to complete design and construction of all development impact improvements and have them inspected and approved by City staff before the City will approve a final subdivision plat for that development.

16. Minor Street System. The rigid rectangular gridiron street pattern need not be adhered to and the use of curvilinear streets, cul-de-sac, or U-shaped streets will be accepted where such use will result in a more desirable layout and a more economical use of land. 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 length of streets necessary to provide convenient and safe access to property.

17. Excess Right-Of-Way or Easements. Right-of-way or easement widths in excess of standards in these regulations shall be required by the Planning Commission where the density or intensity of proposed development will generate unusually high traffic volumes or where wider rights-of-way are required to accommodate necessary road construction.

B. Design Requirements. The following design standards shall be considered minimum requirements and shall specifically apply to all subdivisions.

1. Rights-of-Way. Minimum street rights-of-way shall not be less than the following:

Major Arterial	-----	120 feet
Minor Arterial	-----	100 feet
Collector Streets	-----	80 feet
Minor Street	-----	50 feet
Cul-de-sac	-----	60 foot radius
Marginal Access Street (Private)	-----	40 feet

2. Pavement Widths. Pavement width shall be not less than the following with drainage to prevent surface water from crossing roadways:

Expressway or Freeway	----	Four or more 12 foot lanes with turning lanes and median
Arterial	-----	Four 12 foot lanes with turning lanes and, when Required, median.
Collector Streets	-----	Two or more 12 foot lanes with turning lanes, and, when required, median.
Minor Street or Major or Minor Res. Collector	-----	Two lanes where on street parking is not provided. Where they are provided, parking lanes shall be 9 feet in width. Where a center turn lane is required, a center turn lane 12 feet in width shall be provided. Minor streets serving residential subdivisions shall provide 10 foot lanes. Minor streets serving commercial subdivisions shall provide 11 foot lanes. Minor streets serving industrial subdivisions shall provide 12 foot lanes.
Marginal Access Street	-	Two 10 to 12 foot lanes or one 12 foot lane (one-way streets).

3. Street Grades. Street grades shall be determined in relation to the drainage installation for the subdivision. Street grades shall not exceed 2-1/2% unless adequate protection for erosion is provided or be less than .30% swale sections or .20% for guttered sections unless otherwise approved by the Coordinator of Community Development.

4. Street Intersections. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect another street at an angle of less than seventy five (75) degrees. Intersections with a major street or highway shall be at least eight hundred (800) feet apart.
5. Street Jogs at Intersection. Where there is an off-set in the alignment of a street across an intersection, the off-set of the center lines shall not be less than one hundred twenty-five (125) feet.
6. Property Line Radii. Property line radii at street intersections shall not be less than twenty-five (25) feet, and where the angle of the street intersection is less than ninety (90) degrees, the Planning Commission may require a greater property line radius.
7. Alignment and Visibility
 - a. Proper sight lines shall be maintained at all intersections of streets measured along the centerline per AASHTO & ALDOT standards. Minor and collector streets shall have a minimum clear sight triangle of seventy-five (75) feet and one hundred fifty (150) feet for arterial streets from the point of intersection. No building shall be permitted in this area.
 - b. 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 developer shall cut such ground and/or vegetation in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.
 - c. Vertical curves are required at all changes in street grades and shall meet AASHTO guidelines with minimum length equivalent to the following:
 - (1) On streets with a right-of-way 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 street.
 - (2) On the streets with a right-of-way 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 street.
 - (3) Where a centerline deflection angle occurs, a circular horizontal curve shall be introduced having a centerline radius of not less than the following:

Arterials - - - - - As required under standards of the
Alabama Highway Department.

Collector Streets - 300 feet

Minor Streets - - - 100 feet
 - (4) Tangents of at least one hundred (100) feet in length shall be provided between reverse curves.

- (5) The point of horizontal curvature of any local street shall not be closer than 100 feet to the right-of-way line of any intersecting street.
8. Street Intersection Curve Radii. At street intersections, curve radii of twenty five (25) feet or more shall be provided at the intersections of all local streets; curve radii of thirty five (35) feet or more shall be provided at all intersections of collector streets; and curve radii of forty five (45) feet or more shall be provided at all intersections of arterial streets.
9. Dead End Streets. Dead-end streets shall be prohibited except when designed as a in accordance with the adopted Fire Code.

If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary turnabout, either circular or T or L shaped, shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that the land outside the normal street right-of-way shall revert to abutting property owners whenever the street is continued.

10. Minimum Street Construction Standards. New subdivision streets shall be constructed in accordance with the recommendations of a certified geotechnical engineer and have a minimum paved asphalt surface course of two (2") inches (220 lb/sy surface) wearing course over eight inches of compacted sand/clay base or six inches of compacted crushed limestone base with a minimum eight inch wide by twelve inch deep 3,000 psi concrete curb. Concrete and paver block streets may be approved after review of the proposed construction details and manufacturer's specifications. Local streets shall have centerline striping, collector and arterial streets shall have centerline and edge striping.
11. Sidewalks & Bike Paths. Sidewalks shall be provided within all major subdivisions irrespective of the number or size of lots proposed. Sidewalks shall be installed on both sides of the street and shall have a minimum width of six (6) feet. In addition, subdivisions fronting or backing up to existing roadways shall provide a sidewalk within the adjacent right-of-way if none presently exists. Sidewalk design shall comply with all American with Disabilities Act (ADA) regulations.

If any portion of the subdivision is situated directly adjacent and contiguous to any public right-of-way that has been identified within the Master Bikeway and Sidewalk Plan of the City of Gulf Shores or other City plan or regulation as a future construction segment, then it shall be the responsibility of the developer of the subdivision to provide that portion of the sidewalk/bikeway that lies contiguous and adjacent to the property being subdivided.

Sidewalks shall be separated by not less than two (2) feet from the property line as a buffer and to prevent interference or encroachment by fencing, walls, hedges, or other planting or structures that may presently exist or be placed on the property line at a later date. A median strip of grass or a landscaped area at least two (2) feet wide shall separate all sidewalks from adjacent curbs and/or streets.

11. Pedestrian Accesses. The Planning Commission may require, in order to facilitate pedestrian access from the roads to schools, parks, playgrounds, or other nearby

roads, perpetual unobstructed easements at least twenty (20) feet in width. Easements shall be indicated on the plat.

SECTION 6-4. UTILITIES

A. General Requirements

1. **Underground Installation.** Utilities, including franchised utilities, power and light, cable television, wiring to street lights, and natural gas shall be installed underground unless an exception is approved by the City Council in accordance with the provisions in the Code of Ordinances. This requirement shall apply to all cables, conduits or wires forming parts of an electrical distribution system including service lines to individual properties and main distribution feeder lines delivering power to local distribution systems, provided that it shall not apply to wires, conduits or associated apparatus and supporting structures whose exclusive function is in transmission or distribution of electrical energy between subdivisions generating stations, substations and perimeter lines located adjacent to the subdivision. Appurtenances such as transformer boxes, pedestal mounted terminal boxes, meter cabinets, service terminals, telephone splice closures and similar facilities normally used as part of an underground distribution system may be placed above ground, but shall be located so as not to constitute a traffic hazard.
2. **Installation Prior to Completion of Street or Road Construction.** After the subgrade for a street has been completed, the remainder of the street right-of-way has been graded and before any material is applied all underground work for water mains, sanitary sewers, storm sewers, natural gas mains, and Cable TV lines, electrical power conduits and appurtenances and other utility shall be installed completely throughout the width of the street to the sidewalk area or provisions made so that the road or right-of-way will not be disturbed for utility installation. All underground improvements so installed for the purpose of future service connection shall be properly capped and backfilled.

B. Water Systems

1. **Public Water System.** Public water supply systems shall be extended to serve the subdivision. The distribution system shall provide connections to each individual lot shown in the subdivision, to each public facility, and to areas reserved for nonresidential uses. Plans for the system shall be fully approved by the public or private agency operating the water supply and by other city or county officials having jurisdiction and be designed and tested by a registered professional engineer in accordance with the following standards:
 - a. The current Gulf Shores Utilities specification for water and sewer systems.
 - b. The minimum size lines, fire-flow and flow duration, minimum flow rates and flow duration requirements for subdivisions shall comply with the adopted Fire Codes.
 - c. Water mains shall be required on all streets and shall be looped.
2. **Fire Hydrants.**
 - a. **Residential Subdivisions.** In one and two story subdivisions with not more than 10 dwelling units per acre, fire hydrants shall be spaced no greater than 800 feet apart and not more than 400 feet to the center of any lot in the subdivision.

b. Multi-family and Nonresidential Developments. In areas having densities greater than 10 dwelling units per acre, or in which there are commercial, institutional or industrial developments with high daytime or nighttime population densities, fire hydrants shall be spaced no greater than 500 feet apart and the remotest part of any structure shall not be more than 300 feet from a hydrant connected to a water main. Fire hydrant systems shall be designed by and tested by a registered professional engineer and shall meet the following requirements:

- The current Gulf Shores Utilities specifications for water and sewer systems.
- Fire hydrant systems, locations and distribution requirements for subdivisions shall be designed by a registered professional engineer and shall comply with the adopted Fire Codes.
- Fire hydrants shall be connected to a main no smaller than 8 inches in diameter.
- Fire hydrants shall be capable of providing the fire-flow and flow duration requirements of the adopted Fire Codes.

C. Sewage Systems

1. Sewage Systems. Sanitary sewer systems shall be extended to serve, the subdivision. The design and specifications of the sewer system shall meet the standards established by the provider. Upon submittal of construction plans for a public sewage system as prescribed by these regulations, the design engineer shall supply data, calculations and analyses showing important features affecting design including but not limited to:

- a. Number and type of dwelling units to be served and estimated population.
- b. Population equivalent of other uses to be served or other basis for estimating sewage flow.
- c. A flow chart indicating the number of proposed connections to the system and the anticipated flow of sewage to the nearest outfall.
- d. Any other meaningful information necessary to arrive at estimates of amounts and character of sewage pertinent to the design.

D. Easements. Easements shall be coordinated with requisite utility authorities and shall be provided as prescribed by these regulations for the installation of underground utilities or relocating existing utilities in conformance with the respective utility authority's rules and regulations. All drainage and utility easements including the requirements herein shall be noted on the recorded subdivision plat.

1. Utility Easements.

- a. Easements centered on rear lot lines shall be provided for utilities (private and public). Such easements shall be at least seven and a half (7.5') feet wide (total fifteen (15') feet) unless otherwise approved by the Planning Commission. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements

established in adjoining properties. No structures or landscaping shall be allowed within the rear lot easements and any improvements placed in the easement are subject to removal by the utility company. Easements shall maintain open space for utility company access to maintain, repair and replace utility systems.

- b. Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least seven and a half (7.5') feet wide (total fifteen (15') feet) feet in width shall be provided along side lot lines with satisfactory access to the street or rear lot lines. Easements shall be indicated on the plat.
2. Drainage Easements. Drainage easements at least 10 feet wide shall be provided along all side yard lot lines (5 feet on each lot) to accommodate runoff from each lot to an adjacent right-of-way or drainage common area. Rear yard drainage easements at least 20 feet wide may be utilized to direct stormwater runoff from rear yards only to a right-of-way or drainage common area for a maximum of 20 lots. Rear yard and side yard drainage swale side slopes shall not exceed 4 to 1. Where a subdivision is traversed by a watercourse, drainageway, pipe trench, retention/detention area, channel, or stream, a common area conforming substantially to the lines of such water course, and such width and construction as will be adequate for the purpose, shall be platted to accommodate maintenance of same. If this common area is for the purpose of providing a City or County maintained drainage throughway, it shall be dedicated to the City or County as an easement. If it is for the purpose of connection of subdivision drainage from streets and retention/detention areas to the City or County drainage system, it shall be maintained by the property owners association. It is desirable that the drainage be piped wherever feasible. Easements shall be indicated on the plat. No structures or landscaping shall be allowed within the rear lot easements and any improvements placed in the easement are subject to removal by the home owners association. Easements shall maintain open space for home owners association access to maintain, repair and replace drainage systems.
3. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within the road right-of-way, perpetual unobstructed common areas maintained by the subdivision's property owners association shall be platted with satisfactory access to the road. Common areas shall be indicated on the plat. These common areas shall be carried from the road to a natural watercourse or to other drainage facilities. The common area width shall conform to the construction standards of the City of Gulf Shores.
4. When a proposed new drainage system will divert water into an unnatural water system or on private land adjacent to the subdivisions, appropriate drainage rights must be secured by the applicant and indicated on the plat.
5. The applicant shall dedicate, either in fee or by drainage or conservation easement, land on both sides of existing water courses, to a distance to be determined by the Planning Director.
6. Low-lying lands along water courses 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 drainage ways.

SECTION 6-5. STORMWATER DRAINAGE, EROSION AND SEDIMENTATION CONTROL

A. Drainage Plan. A site grading, drainage and erosion control plan shall be designed and submitted under the seal of a registered professional engineer showing, at a minimum, the locations and methods of control of sediment, erosion, pollutants, and storm water runoff.

The plan shall be accompanied by sufficient engineering calculations for verification of discharge of storm water runoff including retention/detention/filtration of runoff where required, to insure that the maximum storm water runoff discharge rate after development does not exceed the maximum pre-development discharge rate, and that unreasonably high concentrations/quantities of pollutants such as lawn fertilizers and pesticides are not discharged to high quality water bodies.

1. General Requirements. The storm water drainage system shall be separate and independent of any sanitary sewer system. The applicant shall submit with the site grading, drainage and erosion control plan, a design narrative and complete drainage calculations, including but not limited to, assumptions, maps, and computations for each inlet, pipe, or ditch section. The design data and calculations shall be prepared, sealed and submitted by a licensed, professional engineer in the State of Alabama. The design narrative shall summarize the assumptions, calculations, and results of the design.
 - a. The drainage system(s) shall accommodate flows from at least a 10 year, 1 hour design storm. Sufficient detention shall be provided to restrict the runoff rate from the fully developed subdivision to the pre-development runoff rate. At a minimum, a detention/retention volume equal to the first one-half inch of runoff must be provided.
 - b. The method of determining storm runoff shall be as outlined in the "Standards of the City of Gulf Shores, Alabama for Control of Erosion Sedimentation, and Storm Water Runoff".
 - c. Accommodation of Upstream Drainage. Subdivision drainage systems shall be designed to accommodate developed property runoff from upstream drainage basins draining through the subdivision property in accordance with City or County drainage plans.
 - d. Effect on Downstream Drainage Areas. The Design Engineer shall review the effect of each subdivision on existing downstream drainage facilities outside the boundaries of the subdivision. Where the additional runoff incidental to the development of the subdivision will overload an existing downstream drainage facility, the City Engineer, or his/her designee, may withhold approval of the subdivision until provision has been made for the necessary downstream improvement, or require the engineer to retain all runoff on site for the 10 year, 1 hour storm, or restrict runoff in rate, volume, and discharge location to the pre-development runoff condition.
 - e. As part of the subdivision design, the design engineer shall set a finished floor elevation and ground elevations at the adjoining lot lines for each lot in the subdivision which shall be approved by the City based upon the subdivision and Citywide drainage plans. These elevations shall be adhered to when the lots are developed unless higher elevations are required due to flood zone requirements.

- f. Master Lot Grading Plan – A plan drawn to a scale not less than 1:100 showing the overall drainage, grading, house type, etc. in a plan of subdivision. This plan must also show the directions of the minor and major storm flows within the limits of the development. Master lot grading plans shall show existing roadway centerline and grade elevations, the proposed elevation of the lowest floor, proposed driveway material and location, proposed drainage culvert size and location if applicable, swale locations and an indication of the proposed drainage flow directions of the site including outfall locations from the property. Elevations must be based on the National American Vertical Datum of 1988. If roof gutters are to be utilized to control roof runoff, the location of the downspouts must be indicated on the lot grading plan. For projects that lie within a designated flood planning, the lot grading plan must depict the location and zoned designation of the special flood hazard area(s), the elevation of the proposed lowest floor in AE zones, or the elevation of the proposed lowest horizontal structural member and V zone certification in VE zones. Additional information may be required, such as topographic and wetland information as warranted by specific site conditions and project characteristics.
3. Design Details. Details for all drainage structures will be required for approval. All roadway cross drain pipes shall be reinforced concrete and have a minimum size of 18 inches in diameter, or an equivalent arch pipe. Only reinforced concrete pipe will be acceptable under streets. Pipes not under streets or other load bearing surfaces may utilize other materials as approved by the City Engineer. Corrugated metal pipes are not allowed. Concrete box culverts used shall be designed and constructed according to the latest edition of the ALDOT Standards and Specifications for Road and Bridge Construction.
 - a. Inlets shall be provided so that surface water is not carried across any intersection. When calculations indicate that curb capacities are exceeded at a point, catch basins shall be used to intercept flow at that point.
 - b. Where the subdivider has open ditches, a maximum of 3 to 1 side slopes and flat bottom ditch is required. V-bottom ditches or other special designs will be permitted in special cases as approved by City Staff. Calculations shall show the volume and velocity for each different ditch section. Ditch lining shall be designed based on the ditch calculations. All ditches are required to be solid sod prior to final plat approval. For roadside ditches, calculations shall also be required for the sizing of driveway culverts.
 - c. Headwalls and Rip-rap. A concrete headwall shall be required on all pipe culverts. Special types of headwalls, rip-rap, and other materials shall be required by City Staff when deemed necessary for erosion control, protection of existing downstream drainage facilities, and roadside safety.
 - d. Retention/Detention Reservoirs. All retention/detention reservoirs shall be located in common areas maintained by the subdivision's property owners association and shall be enclosed by level, unobstructed maintenance access extending 15 feet beyond the maximum anticipated ponding area for a base flood event. The common area must have a minimum of 20 feet of frontage on a right-of-way.

B. Fill for Building Sites.

1. Fill may not be used to raise land within a floodway. Other land subject to flooding (other than coastal flooding) may be platted for use only if filled to such

height as will secure a flood free building site, provided such fill does not endanger life or property, restrict the flow of floodwaters, or result in increased flood heights; and further provided that any fill shall extend thereon, except where twenty-five (25) feet beyond the limits of any structure erected thereon, except where twenty-five feet is not feasible. Upon approval by the City, fill may be used to protect against erosion.

2. Fill shall consist of soil or rock material only and shall be thoroughly compacted to prevent excessive settlement and shall be protected from erosion. Fill slopes shall not be steeper than one (1) foot vertical for each three (3) feet horizontal unless steeper slopes are justified and approved by the City. Fill shall be used only to the extent that it does not adversely effect adjacent properties. Such fill shall be certified by a registered engineer that use of fill fulfills all requirements of these requirements.

C. Low Impact Development. Low Impact Development (LID) is an ecosystem based approach that generates less surface runoff, less pollution, less erosion, and less overall damage to lakes, streams, and coastal waters. LID's goal is to mimic a site's predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to its source, instead of conveying and managing / treating stormwater in large, costly end-of-pipe facilities located at the bottom of drainage areas. New subdivisions are encouraged to employ a variety of LID strategies to accomplish five (5) basic principles:

1. Encourage conservation measures
2. Promote impact minimization techniques such as impervious surface reduction
3. Provide for strategic runoff timing by slowing flow using the landscape
4. Use an array of integrated management practices to reduce and cleanse runoff
5. Advocate pollution prevention measures to reduce the introduction of pollutants to the environment

D. Other Requirements. The Planning Commission may require whatever additional engineering information it deems necessary to make a decision on subdivisions and other developments which contain an area of questionable drainage.

SECTION 6-6 OPEN SPACE, LANDSCAPING, & BUFFERS

A. Reservation of Land for Public Purposes. To insure development of the community in accordance with the Master Plan, or any of its elements, the Planning Commission may require that the subdivider reserve open spaces for parks, schools, fire stations, playgrounds, or any other use the Planning Commission deems essential to the welfare of the community for a period of six (6) months from the submission of the preliminary plat. This period may be extended for a designated time with the written consent of both the subdivider and the Planning Commission. However, no more than ten (10) percent of the total subdivision may be required for these purposes. At the end of the above mentioned period, if the City has been unable to acquire said property, then it shall remain the property of the subdivider and shall not be subjected to more restrictive regulations than the subdivision in which it lies.

B. Open Space. The following regulations are intended to develop within new subdivisions, private recreation areas in the form of "Mini Parks" and "Neighborhood Parks," for the purpose of meeting the informal recreational needs of its residents. To this end all subdivisions having twenty-five (25) or more lots with average lot sizes of less than one (1) acre shall provide open space consistent with these regulations. For subdivisions having less than twenty-five (25) lots, the Planning Commission may, at its discretion, if appropriate under the circumstances of a particular subdivision, require that open space be provided in similar quantity and quality as herein referenced.

1. **Minimum Area:** A minimum of ten (10) percent of the overall land area of the subdivision shall be reserved as open space. The land shall be shown as open space on the final plat and include adequate provision for the ownership and maintenance of such areas. Such areas shall not be converted to another use without the prior approval of the City of Gulf Shores Planning Commission and all owners of property within the subdivision. When it is determined that it will be more beneficial to the future residents of the subdivision, the Planning Commission may approve the division of required open space into more than one site or area.
2. **Common space** shall be held in common ownership by a property owners' association who shall assume full responsibility for its maintenance and who shall prevent development and subsequent subdivision of the open space for other than open space purposes. Documents establishing the association, explaining ownership and membership requirements, establishing articles of incorporation and bylaws, providing the time at which the developer turns the association over to the property owners, listing items owned in common including such items as roads, recreation facilities, parking, and utilities, detailing its obligation and otherwise providing for the maintenance and preservation of open space areas shall be prepared and submitted with all required plans. Covenants shall provide for the mandatory inclusion of all property owners for the purpose of being responsible for continuing maintenance of the open space areas.
3. **Design Requirements:**
 - a. In order to be credited toward the minimum open space requirement, these open space areas should, to the extent practicable, be placed central to the development and designed as an integral part of the subdivision. To the extent practicable, lots should face or be adjacent to (side with) open space.
 - b. Required open space should be of appropriate dimension to accommodate active, as well as passive, recreational activities.
 - c. Open space areas shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjointing lots shall be provided with safe and convenient pedestrian access to open space. Open space areas shall be connected to any adjacent open space areas

that exist on other sites in order to provide an interconnected network of open space throughout the community..

- d. Depending on the size of the subdivision appropriate sidewalks and/or trails may be required through the open space area.
- e. As a general rule, approximately ½ of the required open space shall be cleared and sodded for active recreational activities. The remainder may be approved as natural areas for passive recreation activities.
- f. Required open space shall not include narrow strips of land used to provide internal or external buffers or other areas considered “unusable.”
- g. In addition, all such open spaces shall be provided in addition to those lands utilized for drainage and storm water management. If it can be demonstrated by the applicant, to the satisfaction of the Planning Commission, that such lands can be utilized effectively for both purposes a waiver of this requirement may be approved.

4. Phasing:

- a. At a minimum, all open space required to comply with this ordinance shall be provided with each phase of construction. The above design requirements shall be applied to each phase of a development unless a deviation is approved by the Planning Commission.

5. Ownership and Management. For all proposals involving the creation of open spaces or facilities to be owned and maintained by a property owners association. The Applicant shall submit a Plan for Management of Open Space and/or Common Facilities that:

- a. Allocates responsibility and guidelines for the maintenance and operation of the Common Open Space/facilities including provisions for ongoing maintenance and for long-term capital improvements;
- c. Provides that any changes to the Plan be approved by the Commission; and
- d. Provides for enforcement of the Plan.

6. Compliance. In the event the party responsible for maintenance of the Common Open Space/facility fails to maintain all or any portion in reasonable order and condition, the City may assume responsibility for its maintenance and may enter the Premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the association, or to the individual owners that make up the association, and may include administrative costs and penalties. Such costs shall become a lien on all involved properties.

C. Landscaping. These regulations establish minimum standards for the provision, protection, installation and maintenance of landscape plantings. In some cases, minor deviations from the literal requirement of these provisions may be permitted as specified herein. Landscape Plan shall be prepared by a registered landscape architect, architect, engineer, or a state certified landscape designer in accordance with the regulations below:

1. Neighborhood borders. New subdivisions shall provide landscape buffers between adjacent streets. Where single family lots do not front on an existing streets a minimum, a ten (10) foot wide landscape strip shall be provided between proposed subdivision and an existing street in accordance with one of the following standards:
 - a. Be landscaped with a minimum of one tree and three shrubs for every 25 lineal feet of street frontage, or;
 - b. Be retained in a natural state and contain appropriate species and heights of natural vegetation to provide the desired buffer protection. In some instances additional plantings may be required to enhance the natural vegetation, or;
 - c. Be landscaped with a staggered double row of evergreen plantings that will within three years grow into nearly impervious visual barrier.
 - d. Additional plantings and/or buffer width may be required at the discretion of the Planning Commission to address individual site specific buffering needs.
2. Street trees shall be planted on both sides of new streets in an alternating pattern approximately one hundred (100) feet apart and at least ten (10) feet from any sidewalk or thoroughfare. Street trees are to be planted on private property and not within the right-of-way and shall be the maintenance responsibility of the home owners association. Street trees placed shall not be of a low, bush species that might obstruct vision and shall be pruned so that no foliage, limbs, or other obstructions exist between existing grade and ten (10') feet. Street trees shall be a minimum height of twelve (12) feet and a minimum three (3) inch caliper measured at six (6) inches above grade level at planting. Tree planting wells shall be as large as possible to allow for ample growing space and to prevent damage or impede access to buried utility lines, sidewalks or streets. Variations in the location of street trees may be made necessary by the location of driveways, street corners, sidewalks, topography and planting conditions. Minimum distances between street trees and other improvements are as follows:
 - a. 25 feet from a street intersection
 - b. 30 feet to a stop sign
 - c. 6 feet from all other traffic signs
 - d. 3 feet from a fire hydrant
 - e. 2 feet from property lines
3. Identify all open space areas required by this Article and show which areas are to be cleared and sodded for active recreational activities.
4. Lakes and retention/detention areas. Lakes and retention/detention facilities shall be landscaped with three (3) trees per one-hundred (100) feet of the perimeter of the lake or retention/detention area and be designed as natural features by including native deep-rooted shoreline plantings to stabilize soil, slow run-off, facilitate infiltration and decrease erosion. Landscape plans for these areas shall allow access for maintenance.
5. Identify all open space areas required by this Article and show which areas are to be cleared and sodded for active recreational activities.
6. Landscape Plans shall take into account the presence of existing vegetation and natural features. Unless determined by the approving authority to be unfeasible, existing trees shall be preserved and integrated into the landscape design. No Protected Tree may be cut down, or any Lot or Parcel cleared without the issuance

of a permit from the City in accordance with Chapter 7, Article VIII, Tree Protection, of the Code of Ordinances. Preserved trees may be eligible for credits toward the planting requirements of this Ordinance.

7. Minimum landscape specifications. Trees required by this Section are full-bodied trees with a shape characteristic of the species, a minimum height of twelve (12) ft, and a minimum three (3) inch Caliper measured at six (6) inches above Grade Level at planting. Palms, when permitted as substitutes, shall have a minimum height of fourteen (14) ft and shall be planted in groups of not less than three (3). All Shrubs shall be a minimum three (3) gallon size at the time of planting.
8. Native vegetation shall be used where practicable and landscape plans submitted for review shall identify plants that are native species.

D. Buffering. On occasion a proposed subdivision may create a situation where an issue of compatibility will arise regarding adjacent zoning or existing uses. Where such instances occur the Planning Commission shall have discretion to require modifications to the proposed plat to adequately buffer existing development from proposed development as well as to buffer the new developments. The following criteria or combinations thereof may be applied by the Planning Commission.

1. Where a proposed subdivision lies adjacent to property zoned or used for multi-family, commercial, or industrial purposes, the Planning Commission may require that adjacent lots be buffered by an appropriate landscape strip or natural area a minimum of ten (10) feet in width.
2. Where a new subdivision proposes to plat lots adjacent to an existing single family subdivision or neighborhood and such lots are inconsistent with the existing lots in regard to size, width, or density, the Planning Commission may require a minimum ten (10) foot wide natural or landscaped buffer, in order to create an appropriate buffer and transition between adjacent land uses.

E. Fencing

On all subdivisions, fencing shall be required along the rear side of the ten (10) foot wide landscape strip required by this Article. All proposed fencing shall be identified on the preliminary subdivision plan and be consistent with the following design requirements.

1. Fences shall be of masonry, ornamental metal, durable wood, or a combination thereof as approved by the reviewing authority. Untreated wood, chain-link, plastic or wire shall not be permitted. No more than twenty-five (25) percent of the fence surface, required as a part of a Buffer, shall be left open. The finished side of the fence shall face Abutting property. Fences shall be opaque but not create a stockade appearance. This can be accomplished in a number of ways, including:
 - a. Adding an evergreen screen on the exterior side of the fence;
 - b. Using supports of a different material that are visible on both sides of the fence.
2. Fences fronting on public thoroughfares shall have masonry columns spaced no greater than fifty (50) feet on center.
3. The minimum height of fences shall be six (6) feet and the maximum height shall be eight (8) feet.
4. Fences shall be maintained in a neat, orderly and safe condition. The City of Gulf Shores may require the replacement or repair of neglected or unsightly fences.

ARTICLE VII

WAIVERS

SECTION 7-1. GENERAL

Modifications and waivers of the Subdivision Regulations may be granted when the Planning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purpose of these regulations may be served to a greater extent by an alternative proposal. The Planning Commission shall not approve waivers unless it shall make findings based upon the evidence presented to it in each specific case that:

- A. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;
- B. The condition is beyond the control of the subdivider.
- C. The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable generally to other property;
- D. 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;
- E. The waiver will not have the effect of nullifying the purpose and intent of the regulations, the Zoning Ordinance, Master Plan, or Official Map.
- F. The waiver is the minimum deviation from the required standard necessary to relieve the hardship.

SECTION 7-2. CONDITIONS

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

SECTION 7-3. PROCEDURES

A petition for any such waiver shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the 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. Letters to adjacent property owners shall include a description of any waiver request.

ARTICLE VIII

NONRESIDENTIAL SUBDIVISIONS

SECTION 8-1. 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 and that requirements for streets, utilities and other improvements may differ significantly from residential subdivisions. Generally, the procedural requirements shall be the same as those outlined in Article III of these regulations. In the Planning Commission's review of the subdivision plat, emphasis will be given to the entire tract to be subdivided; the adequacy of proposed streets, utilities and other improvements to meet the needs of the proposed development; the relationship of the proposed development to surrounding development; the relationship of the proposed development to surrounding development, streets, utilities, etc.; and the general pattern contemplated for lot layout. The Planning Commission may waive requirements for the plat to show a complete lot layout plan in recognition of the fact that the subdivider must size lots to meet the needs of prospective buyers which needs may not be known at the time of plat approval. Final plat approval may be given without showing a complete lot layout. As new lots are created within the nonresidential subdivision, the applicant may submit proposed amendments to the final plat and the approval procedure shall be the same as for final plat approval provided, however, that a public hearing thereon must be held as required for preliminary plat approval.

SECTION 8-2. 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 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. Factors to be considered by the Planning Commission shall include:

A. 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.

B. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereon. Where substantial volumes of traffic may be generated, the Planning Commission may require a study, prepared by a professional traffic engineer, to estimate average daily traffic, and peak hour traffic, generation and to make recommendations in regard to needed rights-of-way, traffic and turning lanes, special design requirements for streets within the subdivision and their intersections with streets adjoining the subdivision, the need for traffic signalization, pavement striping, and traffic control signs. The cost of such study shall be paid for by the applicant.

Because frequent driveways, median breaks and curb cuts can be a severe impediment to the proper functioning of major streets, cross-access easements, minimum driveway separations, shared driveways and frontage roads are encouraged to control and prevent this problem. Serious consideration will be given by the Planning Commission to these issues on arterial streets and major thoroughfares. Design solutions should be considered during the planning stages of all projects.

C. With respect to streets, utilities, and other improvements, special requirements may be imposed by the Planning Commission upon the recommendation of the Planning Director.

D. Every effort shall be made to protect adjacent residential areas from potential nuisance from traffic or activities within the nonresidential subdivision. The Planning Commission may require screening, planting easements, and/or other forms of buffering to protect adjacent residential areas.

E. Buffering shall be incorporated into subdivisions to adequately screen and buffer any adjacent single family or multi-family development from commercial activities. Required landscaping and fencing shall at a minimum, be provided in accordance with Section 6-6, Open Space, Landscaping & Buffers.

ARTICLE IX ADMINISTRATION

SECTION 9-1. GENERAL PROVISIONS

These Subdivision Regulations shall be administered by the City of Gulf Shores Planning Commission. The Planning Director is appointed by the Planning Commission to act as its agent in the interpretation of the specifications and requirements of these regulations, to determine the adequacy of plats and the acceptability of improvements installed in subdivisions, and to insure that the design standards of these regulations are followed in the planning of all subdivisions and their improvements.

The Planning Director of the City of Gulf Shores is appointed by the Planning Commission to act as its liaison officer between all utilities, governmental units, agencies of government, and other officials having interest in or jurisdiction over any aspect of subdivision planning and development, and to insure that the subdivision application and approval procedure, outlined in Article IV of these regulations, are followed. The Planning Director shall provide administrative assistance, as required, to the Planning Commission.

SECTION 9-2. ENFORCEMENT

A. General. It shall be the duty of the Planning Director to enforce these regulations and to bring to the attention of the City Clerk/Administrator any violations or lack of compliance with these regulations.

B. Violations. No owner, 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 Planning Commission and recorded with or filed with the Probate Judge of Baldwin County. 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 penalties or remedies herein prescribed.

C. Penalties. Conviction of a violation of the subdivision regulations shall result in forfeiture and payment of a penalty of one-hundred dollars (\$100) for each lot or parcel so transferred or sold. The City of Gulf Shores may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover any lawful penalty by a civil action in any court of competent jurisdiction.

SECTION 9-3 CONFLICT WITH PUBLIC & PRIVATE PROVISIONS

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

B. 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 than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern.

SECTION 9-4. 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 applications thereof to other persons or circumstances. The Planning Commission declares that it would have enacted the remainder of these regulations even without any such part, provision, or applications.

SECTION 9-5. 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 City of Gulf Shores under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the City except as shall be expressly provided in these regulations.

SECTION 9-6 AMENDMENT

The Planning Commission may from time to time amend the provisions imposed by these regulations. Before adoption or amendment of these subdivision regulations, public notice of a hearing must be posted. Such notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the City of Gulf Shores. Said public hearing shall be advertised a minimum of fifteen days prior to the date of the public hearing. The regulations shall be published as provided by law for the publication of ordinances and before adoption, a public hearing shall be held thereon. A copy of the adopted regulations shall be certified by the Planning Commission to the Probate Judge of Baldwin County.

Effective Date: February 2, 1986

SECTION 9-7 EFFECTIVE DATE

These rules and regulations shall be in full force and effect from and after their adoption, publication and effective date.

ADOPTED: January 28, 1986

EFFECTIVE DATE: February 2, 1986

APPENDIX A

SUGGESTED CERTIFICATES FOR FINAL SUBDIVISION PLATS

SURVEYOR'S CERTIFICATE AND DESCRIPTION OF LAND PLATTED

STATE OF ALABAMA

COUNTY OF BALDWIN

I, (name of surveyor) , a registered Engineer-Surveyor of (name of county), Alabama, hereby certify that I have surveyed the below described property situated in Baldwin County, Alabama:

(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 showing the easements, streets, alleys and public grounds and giving the bearings, length, width and name 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 as hereon shown.

WITNESS my hand this the _____ day of _____, 19 ____ .

(Name of Surveyor)
Registration #

OWNERSHIP & DEDICATION

This is to certify that I /WE (Land Owner or developer, address) the undersigned, am (are) owner(s) of the land shown and descried in the plat and I/We certify at the time of final plat that the property has not been conveyed or mortgaged subsequent to the date of the title document, and I/We have caused the land embraced within this plat to be surveyed, staked, and platted to be known as (Subdivision Name), 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 use by the public or are to remain as private.

Signed and sealed in the presence of:

Witness

Property Owner

Witness

Property Owner

Commentary (do not place on plat)

When the developer is not the land owner, two or more Dedication Certificates may appear on the plat in order to allow for the signatures of both the owner and the developer to be fixed to said Plat, in which case one of the following notarizations must appear for each Dedication Certificate.

CERTIFICATE OF APPROVAL BY THE COUNTY ENGINEER

The undersigned, as County Engineer of Baldwin County, Alabama, hereby approved the within plat for the recording of same in the Probate Office of Baldwin County, Alabama, this the _____ day of _____ 20 _____.

County Engineer:

FLOOD STATEMENT

The property shown hereon is in zone “___” as scaled from the Federal Emergency Management Agency, National Flood Insurance Program, Flood Insurance Rate Map, Community-Panel Number(s) _____, City of Gulf Shores, Alabama dated _____.

WETLAND NOTICE

By approval of this plat, the Planning Commission of the City of Gulf Shores, makes no representation or warranty, either expressed or implied, that any lot delineated on this plat which may be encumbered by any wetlands is or will be suitable for improvement or other development.

Purchasers are on notice that improvement of property encumbered by wetlands will require separate permitting by Federal and/or State authorities under such law and regulations governing wetlands as may be in effect from time to time.

JACK EDWARDS AIRPORT NOISE OVERLAY DISTRICT

All lots of this subdivision are located within the Jack Edwards Airport Noise Overlay District and shall be subject to the provisions of Ordinance No. 823 or to the provisions of any superseding ordinance or amendment thereto.

JACK EDWARDS AIRPORT HEIGHT OVERLAY DISTRICT

All lots of this subdivision are located within the Jack Edwards Airport Height Zoning Overlay District and shall be subject to the provisions of Ordinance No. 831 or to the provisions of any superseding ordinance or amendment thereto.

CERTIFICATION BY
GULF SHORES UTILITIES

The Utilities Board of the City of Gulf Shores hereby certifies that, as of the date of this certification, potable water service is available and sanitary sewer service is available to the property described by this plat taken as a whole. The Board does not certify that the infrastructure necessary to provide potable water service and sanitary sewer service to the individual lots shown on this plat has been installed as of the date of this certification or will be installed in the future. Further, the Board makes no statement regarding and assumes no responsibility for any particular of this plat not associated with provisions of potable water and sanitary sewer service to the property described by this plat taken as a whole and hereby affirmatively disclaims any such responsibility.

Manager

Date

CERTIFICATE OF APPROVAL BY (name of utility provider)

As authorized by (name of provider), the undersigned hereby certifies the approval of the above final subdivision plat for recordation with respect to required _____ utility improvements and further certifies that all such required _____ utility improvements as are delineated on that certain Preliminary Plat approved by the Planning Commission on ___/___/___ have been completed in a manner acceptable to (name of provider) or that, if a performance bond or other means of performance guaranty has been provided in lieu of completion of some or all of such required _____ utility improvements prior to final plat approval with the consent of the Planning Commission of the City of Gulf Shores, the conditions and amount of such performance guaranty with respect to those required _____ utility improvements, if any, that have not been acceptably completed as of the date of this certificate are deemed adequate by and are acceptable to (name of provider).

Date: _____

(NAME OF PROVIDER)

By _____
Its (Title)

CERTIFICATE OF APPROVAL BY THE
PLANNING COMMISSION OF THE CITY OF GULF SHORES, ALABAMA

APPROVED by the City of Gulf Shores Planning Commission. By approval of this subdivision plat the Planning Commission of the City of Gulf Shores assumes no responsibility for survey errors or for defects or deficiencies in the title to the property affected by the plat, and any such responsibility is hereby affirmatively disclaimed.

Chairman

Date

CERTIFICATE OF APPROVAL BY THE
PLANNING DIRECTOR OF GULF SHORES, ALABAMA

APPROVED by the PLANNING DIRECTOR of the City of Gulf Shores. By approval of this subdivision plat the Planning Director of Gulf Shores assumes no responsibility for survey errors or for defects or deficiencies in the title to the property affected by this plat and any such responsibility is hereby affirmatively disclaimed.

Planning Director

Date

CERTIFICATE OF APPROVAL BY THE
PUBLIC WORKS DIRECTOR
OF GULF SHORES, ALABAMA

APPROVED by the PUBLIC WORKS DIRECTOR of the City of Gulf Shores. By approval of this subdivision plat, the Public Works Director of Gulf Shores assumes no responsibility for survey errors or for defects or deficiencies in the title to the property affected by this plat and any such responsibility is hereby affirmatively disclaimed.

Public Works Director

Date

CERTIFICATE OF APPROVAL BY THE
FIRE MARSHALL OF GULF SHORES, ALABAMA

APPROVED by the FIRE MARSHALL of the City of Gulf Shores. By approval of this subdivision plat the Fire Marshall of Gulf Shores assumes no responsibility for survey errors or for defects or deficiencies in the title to the property affected by this plat and any such responsibility is hereby affirmatively disclaimed.

Fire Marshall

Date

LICENSED ENGINEER'S
CERTIFICATION OF IMPROVEMENTS

I, _____, a licensed Professional Engineer in the State of Alabama with a license number of _____, hereby certify that I have designed the improvements shown on this plat in conformance with applicable codes and laws, the principles of good engineering practice, and the drainage design requirements of the

City of Gulf Shores or Baldwin County, as applicable. I further certify that I have inspected the construction and find that it conforms to the designed improvements shown on this plat.

Engineer

Date

Firm

APPENDIX B

SUBDIVISION LETTER OF CREDIT

IRREVOCABLE LETTER OF CREDIT
LETTER OF CREDIT NUMBER: (Number)
ISSUED ON: (Date)

Beneficiary

City of Gulf Shores
P.O. Box 299
Gulf Shores, AL 36547

Applicant

(Applicant's Name and Address)

AMOUNT: (Enter Amount)
Date)

EXPIRATION DATE: (Enter

Gentlemen:

We hereby issue our irrevocable Letter of Credit No. () in your favor for the account of (Name of Developer) (Address) for a sum not exceeding (gross sum of estimated cost of required improvements), available by your sight drafts at any time during the life of this letter of credit on the (Name of Bank) and accompanied by the document specified below:

- A. In the event Beneficiary determines there is a default by the Applicant, but not a default by the Contractor the following documents shall accompany the draft.
1. Beneficiary's signed statement certifying that applicant is in default on payments due to Contractor as called for in those Construction Agreements between Applicant and Contractor, and further certifying; (i) that the Applicant has been provided with 3 days prior written notice of default and the Beneficiary's intent to draw on this Letter of Credit; and (ii) that funds obtained as a result of the payment of said draft will be used to pay for said construction pursuant to the certificates provided in Subparagraph (2) below.
 2. A copy of the written request for payment submitted by Contractor to Applicant along with a copy of the architects and/or engineer certification of completion and authorization of payment.

In the event Beneficiary determines there is a default by Applicant and a default by Contractor, the following documents shall accompany your draft:

- Beneficiary's signed statement certifying that Applicant is in default and further certifying that Contractor is in default.
- Beneficiary's signed statement certifying that Applicant and Contractor have been provided with three (3) days prior written notice of default and the Beneficiary's intent to draw on this Letter of Credit.
- A copy of certification from architects and/or engineers that the contract is in default and further specifying the default.

- Certification by Beneficiary as to use of funds obtained from payment of draft to cure said specified defaults and to complete construction.

Payment of all drafts presented shall be made to the order of the Beneficiary unless otherwise specified by the Beneficiary. The order to which payment shall be made must be specified on each draft.

Payments made by the Applicant in accordance with the Construction Agreements shall reduce the aggregate sum available under this Letter of Credit by an amount equal to such payment(s).

Drafts drawn against this letter of credit shall reduce the aggregate sum available under this Letter of Credit by the amount of said drafts.

Our obligation under this Documentary Credit shall not be affected by any circumstances, claim or defense (real or personal) of any party as to the enforceability of the Construction Agreements referenced herein, it being understood that our obligation shall be that of a primary obligor and not that of a surety, guarantor or accommodation maker.

It is a condition of this letter of credit that it shall be deemed automatically extended without amendment for consecutive six month period until the earlier: (i) completion of construction of the Project, or (ii) aggregate drafts hereunder equal the Amount hereof.

Except as modified hereby, this Letter of Credit is non-transferable and non-assignable.

All drafts drawn under this Letter of Credit must bear the clause “Drawn under (Name of Bank), Letter of Credit (same letter of credit number as above) dated (same issuance date as above).”

We hereby engage with you that your draft under and in compliance with the terms of the credit will be duly honored upon presentation and delivery of the documents as specified.

This Letter of Credit is subject to the International Standby Practiced 1998.

The original of this Letter of Credit and any amendments thereto must be presented with any drawing to (Name of Bank) for proper notation of each draft and the original hereof shall be surrendered upon the earlier of (i) completion of construction of the Project and its acceptance by Beneficiary; or (ii) the draft which in the aggregate with prior drafts equals the Amount hereof.

As used herein, the following terms shall mean:

“Completion of the Project”; Completion of the subdivision infrastructure and its acceptance by the Beneficiary’s Public Works Department.

“Construction Agreements”; Construction contracts between (Name of Developer/Owner) and (Name of Construction Company) dated (Date of Contract) respectively for construction of infrastructure improvements to the Project.

“Contractor”: (Name of Contractor)

“Project”: (Name of Subdivision)

(Name of Bank)

By: (Name of Issuer)

Its: (Title of Issuer)

By: (Name of Issuer)

Its: (Title of Issuer)

APPENDIX C

CONSERVATION EASEMENT

STATE OF ALABAMA
COUNTY (_____)

CONSERVATION EASEMENT

KNOW ALL MEN BY THESE PRESENTS: That (Developer or Property Owners Association), hereinafter called Grantor(s), for and in consideration of ONE AND NO/100s DOLAR (\$1.00), the receipt of which is hereby acknowledged, do hereby grant, bargain, sell, transfer and convey unto the City of Gulf Shores, hereinafter called Grantee(s), and their successors and assigns forever, a perpetual CONSERVATION EASEMENT, as described in Ala. Code §35-18-1 to §35-18-6, for the purpose of protecting the natural, scenic and open-space values of the wetlands/natural area described herein below. The subject area is to remain in its natural state and no activity or construction of any kind can take place without the prior written approval of the Grantee(s), which approval may be denied by the Grantee(s) in its absolute discretion upon its determination that the “natural, scenic, or open space values” of the easement would thereby compromised. Grantor(s), and all successors and assigns of Grantor(s), hereby are subject to the limitation that they are prohibited from using said property in any manner which would have the effect of damaging the natural, scenic and open-space values of the property. The property subject to this conservation easement is located in Baldwin County, Alabama and described as follows:

Those portions of the following described parcel of land which are characterized as wetlands under pertinent state and federal law, to-wit:

(Insert Survey Description and Map)

TO HAVE AND TO HOLD the above described rights, privileges, obligations and easements unto the Grantee(s), and to their successors and assigns forever, together with the right of entry and reentry from time to time as occasion may require for the purpose of exercising said rights, privileges and easements hererinabove described:

In witness whereof, I have hereunto set my hand and seal this (DATE).

I, the undersigned Notary Public in and for the State and County aforesaid, hereby certify that

_____, 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 said conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this (DATE)

NOTARY PUBLIC
My commission expires: _____

ACCEPTANCE

City of Gulf Shores, Grantee(s) of the Conservation Easement hereinabove hereby accept said Conservation Easement and all rights, obligations, limitations and responsibilities of maintaining and enforcing said Easement.

In witness whereof, I have hereunto set my hand and seal this (DATE).

I, the undersigned Notary Public in and for the State and County aforesaid, hereby certify that _____, 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 said conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this (DATE).

:

NOTARY PUBLIC
My commission expires

This instrument prepared by:

APPENDIX D

SUBDIVISION ROADWAY AND DRAINAGE IMPROVEMENT ACCEPTANCE AGREEMENT

CITY OF GULF SHORES

**SUBDIVISION ROADWAY AND DRAINAGE IMPROVEMENT
ACCEPTANCE AGREEMENT**

KNOW ALL MEN BY THESE PRESENTS, THIS AGREEMENT (hereinafter referred to as "AGREEMENT"), entered into by and between _____ (Owner, Developer and Contractor jointly and severally known as the "OWNER"), and the City of Gulf Shores, Alabama (hereinafter called the "CITY") all collectively known as the "PARTIES".

WITNESSETH:

WHEREAS the rights-of-way of _____ (Subdivision Name) located in Baldwin County, Alabama were dedicated to public use by the OWNER on the record plat (Exhibit C) as recorded with the Baldwin County Judge of Probate on Slide No. _____ on the _____ day of _____, 20____, included herein by reference as if fully set forth; and

WHEREAS the OWNER further warrants that the roadways and drainage improvements within the following public rights-of-way are complete and are in compliance with all Federal, State and local laws to include minimum standards specified by, without limitation, the City of Gulf Shores Subdivision Regulations, and that they are free from known defects and are free and clear of all liens and encumbrances (see also Exhibit D):

Roadway Name	Centerline Length of Roadway (feet)	Asphalt Width (feet)	Curbing Yes/ No

(list all subject roads/rights-of-way separately); and

WHEREAS the OWNER hereby agrees that in consideration of the CITY accepting the said roadways and drainage improvements for maintenance, a maintenance surety document (Exhibit B) has been provided to the City Council in an amount determined by the Public Works Director and not less than 20% of the "Engineer's Itemized Cost Estimate of Construction" (Exhibit A) of the roadways and drainage improvements within the said rights-of-way; and

NOW THEREFORE, in consideration of the premises and the mutual covenants contained within this AGREEMENT and Contract, the sufficiency of which is hereby acknowledged, the OWNER and the CITY do hereby agree as follows:

1. RECITALS. The above recitals and statements are incorporated as part of this AGREEMENT as if fully set forth herein.
2. EXHIBITS AND ATTACHMENTS. Exhibits and/or attachments listed or referenced herein are specifically included as a necessary part of this AGREEMENT and the same shall not be complete without such items, to wit:

Exhibit A. Engineer's Itemized Cost Estimate of Construction (certified by the design engineer of all roadways and drainage improvements within the public rights-of-way);

Exhibit B. Maintenance Surety Document in the form (as approved by the CITY) and the amount prescribed by the Public Works Director as described herein;

Exhibit C. Copy of the Recorded Subdivision Plat;

Exhibit D. Certification of Improvements.

CITY and OWNER jointly shall cause such items as listed above to contain dates, signatures of the parties with authorization to make such signatures, and sufficient marks and references back to this AGREEMENT noting their inclusion and attachment hereto.

3. OWNERSHIP. The OWNER hereby warrants that he is the rightful owner of all necessary rights, title, and interest in the property subject to this AGREEMENT and he has full authority to enter and do all things required by this AGREEMENT.
4. MAINTENANCE PERIOD. The subject maintenance period and term of this AGREEMENT begins upon the date in which all PARTIES fully approve and execute the same and shall extend for a period of seven-hundred-twenty (720) days therefrom (seven-hundred-twenty (720) day period).
5. PUBLIC WORKS DIRECTOR SOLE AUTHORITY. The Public Works Director, or his/her designee, shall have the sole and final authority to interpret and/or determine, without limitation, the existence and nature of defects and deficiencies within any right-of-way subject hereto; furthermore, the Public Works Director, or his/her designee, shall have the sole and final authority to interpret and/or determine the sufficiency of any conducted repairs and/or

improvements required within any rights-of-way subject hereto. The interpretations and determinations of the Public Works Director, or his designee, hereunder shall be final.

6. SURETY REQUIREMENTS. The OWNER has filed with the CITY a Maintenance Bond, Irrevocable Standby Letter of Credit, or other approved form of surety document (Exhibit B) in the amount of \$ _____ made payable to the CITY on behalf of _____ (name of Principal as shown on surety document). This surety document shall cover the cost of any repair work required by the Public Works Director within the subject right(s)-of-way associated to the repair of deficiencies or defects that occur as a result of, without limitation, defective materials and/or faulty workmanship, except for general wear and tear. In any event that said surety document conflicts with this AGREEMENT, then this AGREEMENT shall prevail.

If at any time during the seven-hundred-twenty (720) day maintenance period, should the improvements be in need of repairs as determined by Public Works Director, the following procedure should be followed:

1. The repairs will be made by the Gulf Shores Public Works Department or other entity as determined by the CITY.
2. The OWNER will be sent an itemized invoice of the said repairs and given the opportunity to immediately reimburse the CITY for the cost of said repairs.
3. If the OWNER does not reimburse the CITY for said repairs within 30 days from the date of the invoice or before the end of the seven-hundred-twenty (720) day period (whichever comes first), then the PARTIES understand that the CITY will be authorized to collect from the Surety.
4. Notwithstanding anything written or implied herein to the contrary, said seven-hundred-twenty (720) day period shall be automatically extended in the event that an invoice has been sent to the OWNER and the time of the subject notice conflicts with, or the necessary repairs extend beyond, the final date of the seven-hundred-twenty (720) day period. In such event, said surety document shall remain in full effect until the CITY or its designee releases same following the respective repairs.
5. Notwithstanding anything herein written or implied, the CITY retains all remedies at law to collect for any costs incurred to correct said repairs, and in the event that the CITY is unable to collect said costs from the Surety, then the OWNER shall be liable for all invoiced costs.

B. If the Public Works Director considers the roadways and drainage improvements in good repair at the end of the seven-hundred-twenty (720) day maintenance period, then the Public Works Director will recommend that the CITY release the surety document back to the OWNER.

7. ENTIRE AGREEMENT. This AGREEMENT constitutes the entire agreement of the PARTIES with respect to the subject matter hereof and supersedes all

prior and contemporaneous writings, understandings, sketches, drawings, plans, agreements, representations, whatsoever, whether express or implied.

8. SEVERABILITY. In the event that any provision of this AGREEMENT shall be held invalid or unenforceable by a recognized authority or any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision contained herein.
9. NON-ASSIGNABILITY. The PARTIES hereto shall not, without the express written consent of each and every other party hereto, assign, sell, transfer or otherwise any interest, rights or obligations provided or contained herein in whole or in part at any time.
10. NON-WAIVER. The waiver of any breach of this AGREEMENT by CITY shall not constitute a continuing waiver or a waiver of any subsequent breach, either of the same or another provision of this Contract. The delay or omission by CITY to exercise any right or power provided by this AGREEMENT shall not constitute a waiver of such right or power, or acquiescence in any action or inaction on the part of OWNER. Any breach on the part of OWNER shall be construed a continuing breach, and CITY may exercise every right and power under the AGREEMENT at any time during the action or inaction or upon the occurrence of any subsequent breach.
11. TERM AND BINDING EFFECT. This AGREEMENT and Contract will, upon CITY approval:
 - A. continue in effect for a seven-hundred-twenty (720) day period unless amended, altered, or otherwise changed in writing by all PARTIES hereto, and;
 - B. be binding upon and shall inure to the benefit of the CITY and the OWNER.
12. HOLD HARMLESS. The OWNER shall indemnify, defend and hold CITY and its affiliates, employees, agents, and representatives (collectively "CITY") harmless from and against any and all claims, demands, liabilities, damages, losses, judgments, costs, and expenses including, without limitation, attorneys' fees, for any and all personal injury (including death) and property damage of any kind or nature whatsoever, incurred by, asserted against, or imposed upon CITY, as a result of or in the construction and design of the subject roadways and drainage improvements and in relation in any manner related to the acts, negligence or omissions of the OWNER in relation to the maintenance or the care of the subject rights-of-way prior to the execution of this AGREEMENT. This indemnification shall survive the expiration of this AGREEMENT.
13. NO AGENCY CREATED. It is neither the express nor the implied intent of the OWNER or the CITY to create an agency relationship pursuant to this AGREEMENT; therefore, the OWNER does not in any manner act on behalf of the CITY and the creation of such a relationship is prohibited and void.

14. WARRANTIES AND REPRESENTATIONS. The execution and delivery of this AGREEMENT have been duly authorized by all necessary actions of CITY and OWNER.

This AGREEMENT has been duly executed and delivered by, and constitutes the valid and binding obligation of all parties and enforceable against them in accordance with the respective terms contained herein.

The execution, delivery and performance of the various parts to this AGREEMENT shall not violate any State, federal, local law, ordinance, order, writ, injunction, decree, or regulation of any court, or conflict with any other obligation of the PARTIES hereto.

15. GOVERNING LAW. This AGREEMENT shall be deemed to have been made in the State of Alabama. The validity of the same, its construction, interpretation, enforcement and the rights of the PARTIES hereunder, shall be determined under, governed by and construed in accordance with the substantive laws of the State of Alabama, without giving effect to any choice of law provisions arising there under.

16. NOTICE. Any notices to be given under this AGREEMENT by either PARTY, to the other, shall only be effectuated either by personal delivery in writing or by registered or certified mail with postage prepaid and return receipt requested. Notices delivered personally shall be deemed communicated as of the date of actual receipt. This provision, however, shall not invalidate the date identified on any notice of required repairs issued by the Public Works Director, and in such case, the date of said notice shall govern.

Any notices given hereunder shall be delivered, as specified above, only to the following address of the PARTIES:

OWNER:

Address:

Telephone Number:

DEVELOPER:

Address:

Telephone Number:

CONTRACTOR:

Address:

Telephone Number:

CITY:

City of Gulf Shores
P.O. Box 299
Gulf Shores, Alabama 36547

It is the responsibility of each PARTY to promptly notify the other PARTY of any change in the above contact information.

IN WITNESS WHEREOF, the PARTIES, having full authority to do so, have fully executed this AGREEMENT as of the last date of execution below.

- **THIS DOCUMENT IS LEGALLY BINDING, AND LEGAL ADVICE SHOULD BE OBTAINED BEFORE SIGNING.**

(SIGNATURE AND NOTARY PAGES TO FOLLOW)

Owner Company Name

OWNER-(print)

/_____
/ Title

OWNER (signature)

/_____
/Date

**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

_____, 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

Developer Company Name

DEVELOPER-(print)

/_____
/ Title

DEVELOPER (signature)

/_____
/Date

**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

_____, 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

Contractor Company Name

CONTRACTOR-(print) / Title

CONTRACTOR (signature) /Date

**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

_____, 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

City of Gulf Shores

Mayor / Date

ATTEST:

City Clerk / Date