

## **ARTICLE 3 PROCEDURES FOR SUBDIVISION PLAT APPROVAL**

### **SECTION 3.01 APPROVAL OF SUBDIVISION PLATS REQUIRED**

No plat of a subdivision lying within the corporate limits or planning jurisdiction of the City shall be filed or recorded in the Office of the Judge of Probate of Baldwin County until a plat of such subdivision has received final approval by the Planning Commission and properly recorded in accordance with these Regulations. The procedure for the review and approval of a subdivision generally involves pre-application/Sketch Plat review, Preliminary Plat and Final Plat approval. The plat and preliminary design shall meet the requirements of all applicable codes and laws and shall be prepared in conformity with the standards of professional practice.

### **SECTION 3.02 CONSISTENCY WITH PLANS, REGULATIONS AND LAWS**

Proposed improvements in all subdivision developments within the planning jurisdiction of the City of Bay Minette Planning Commission shall be in conformance with existing approved plans, maps, ordinances, and design standards of the City of Bay Minette, including the Comprehensive Plan, Zoning Ordinance, Building Code, Flood Damage Prevention Ordinance and all other applicable laws of the City's jurisdiction. In addition to the requirements established herein, all subdivision plats shall comply with all applicable Federal, State and County laws and regulations.

### **SECTION 3.03 CLASSIFICATION OF SUBDIVISIONS**

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

**3.03.01** Major Subdivisions. Applications for approval of a Major Subdivision shall consist of subdivisions not classified as a Minor Subdivision, including but not limited to subdivisions of 5 or more lots, or any size subdivision requiring any new street or drainage improvements, the extension of public facilities, or the creation of any public improvements. Major Subdivisions require a Pre-Application Conference and Sketch Plat. Upon receipt of the Commission's findings and recommendations on the Sketch Plat, the applicant may prepare and submit a Preliminary Plat application. The Preliminary Plat will be reviewed, and a public hearing held by the Commission on the Preliminary Plat application. Upon Commission approval of the Preliminary Plat, the Subdivider may proceed with posting of a Performance Bond and construction of the subdivision. Upon completion of improvements, the applicant may then submit a Final Plat application.

**3.03.02** Minor Subdivisions. Applications for approval of a Minor Subdivision shall consist of subdivisions that create not more than 4 lots, each lot fronting on an existing, paved public road and does not involve any new street or drainage improvements, the extension of public facilities, nor the creation of any public improvements. Minor Subdivisions do not require Preliminary Plat approval but must receive Final Plat approval. Prior to submitting a plat application for Commission consideration, a Pre-Application Conference is required with City Staff. If staff determines that no street, drainage or other improvements are required and that the proposed subdivision is in conformance with the Comprehensive Plan, Zoning Ordinance and these Regulations, the applicant may then prepare and

submit a Final Plat application. If City Staff determines that any improvements are necessary for the proposed subdivision to comply with these Regulations, the proposed subdivision is considered a Major Subdivision subject to review and approval as such.

**3.03.03**

Exception to Required Approvals. Except as set forth in Section 3.17, the following subdivisions are exempt from the provisions of these Regulations. No public hearing shall be required, but the subdivision shall be subject to review and approval by the Planning and Zoning Director for compliance with the requirements contained herein. Any subdivider or developer who appears to be circumventing the intent and substance of these Regulations may be required to submit a plat for review and approval by the Planning Commission and shall be subject to the penalties under Section 3.18.

1. Subdivision of land by testamentary or intestate provisions.
2. Subdivision of land by court order including, but not limited to, judgments of foreclosure.
3. The public acquisition by purchase or donation of strips of land for the widening or opening of streets or for other public uses.
4. Common property lines are being reconfigured where no new lots are being created and involves no street or other public improvements.
5. The subdivision of property into three (3) or less lots, tracts or parcels for the limited purpose of sale, deed or transfer of land by the owner to qualifying family member(s) and not within a previously recorded subdivision and involves no street or other public improvements. Each parcel which is subdivided pursuant to this subparagraph shall have deeded ingress/egress and utility access or easement that runs with the land of not less than 30 feet in width. A qualifying division hereunder is limited to a division among the following designated legally related immediate family members: Spouse, children, siblings, parents, grandparents, grandchildren, nieces, nephews, or step-related individuals of the same status.

**SECTION 3.04 APPLICANT RESPONSIBILITIES****3.04.01**

Applicants shall determine the appropriate track of approval based on their proposed development and shall be responsible for the full payment of all fees and charges required by these Regulations. The applicant or the applicant's representative shall be present for all meetings and public hearings.

**3.04.02**

The applicant is responsible for providing all engineering services, including plans and specifications in conformity with these Regulations and field inspections and construction supervision as is necessary to assure that improvements are installed in conformity with plans, City standards and the requirements herein. The subdivider shall provide the City with all engineering plans required for conformity with any applicable state, federal or local laws or regulations. Where the Commission deems additional or supplemental engineering data to be necessary for the purpose of assuring the City's interests are protected, the cost shall be borne by the applicant.

**3.04.03**

Applicants are responsible for recording their Approved Final Plat, deeds, and any other required documents at the Office of the Probate Judge of Baldwin County, Alabama, and the cost that it incurs.

## **SECTION 3.05 STANDARDS OF APPROVAL**

The Planning Commission shall not approve the subdivision of land if the Commission makes a finding that such land is not suitable for platting and development as proposed, due to any of the following:

- 3.05.01** The proposed subdivision is not consistent with these Regulations;
- 3.05.02** The proposed subdivision is not consistent with the City's Comprehensive Plan, Zoning Ordinance and/or any other plan or program for the physical development of the City including but not limited to a Master Street Plan, a Transportation Plan, a Parks Plan, a Bicycle Plan, a Pedestrian Plan, or a Capital Improvements Program, where applicable;
- 3.05.03** The proposed subdivision is not consistent with other applicable Federal, State or County laws and regulations; or
- 3.05.04** Notwithstanding that the proposed subdivision may satisfy the technical, objective provisions of these Regulations, the Commission has discretion to deny a subdivision if there is any articulable, rational basis for a determination that the proposed subdivision otherwise endangers the health, safety, or welfare of persons or property.

## **SECTION 3.06 FEES**

To partially defray costs of filing an application, notifying interested parties, investigation, and holding a hearing, a fee according to the current schedule of fees established by the City Council of Bay Minette must be paid to the City by the Subdivider at the time of filing of the application. Fees are not subject to refund or adjustment, irrespective of the final outcome of the application.

## **SECTION 3.07 INCOMPLETE SUBMITTALS**

The City Planner shall review applications to determine if the submittals meet all the requirements herein. Incomplete, partial, or inaccurate submittals will not be accepted, but will be returned to applicant for re-submission for a later hearing. Staff shall submit the Final Plat application to all other City departments, County and State agencies and other officials and agencies, as may be applicable, for review and recommendations. Following staff review and comments, the applicant shall submit a revised plat for review by staff and the Planning Commission. The revised submittals shall reflect staff's initial review comments. Once applications are deemed complete, Planning Staff will schedule the application for presentation to the Planning Commission and public hearing in accordance with the established Meeting and Deadline Schedule.

## **SECTION 3.08 WITHDRAWAL OR TABLING PROCEDURES**

- 3.08.01** Withdrawal. If, for any reason, an item scheduled for presentation before the Planning Commission is withdrawn within seven (7) calendar days of submission, then the application fee shall be credited toward future resubmittal of the application; however, beyond the seven (7) calendar day period, fees shall not be refunded nor credited toward subsequent submittals. The request to withdraw the item

shall be submitted in writing, signed by the applicant or authorized agent, and submitted to the Planning and Development Department prior to the scheduled hearing date.

- 3.08.02** Tabling. If, for any reason, an item scheduled for presentation before the Planning Commission is requested to be tabled without having been presented, then the applicant shall incur the costs required to re-notify adjacent property owners of the future meeting or hearing at which time the item will be considered. The request to table the item and reschedule shall be submitted in writing, signed by the applicant or authorized agent, and submitted to the Planning and Development Department prior to the scheduled hearing date.

### **SECTION 3.09 PUBLIC HEARING AND NOTICES**

- 3.09.01** Prior to the Approval or Denial of a Preliminary or Final Plat, the Planning Commission shall first hold a public hearing. Notice of such public hearing shall be sent to the owner of record, the applicant, all adjoining landowners by registered mail as their names appear upon the latest records of the Baldwin County Revenue Commissioner's Office.
- 3.09.02** Such notices shall be sent not less than five (5) days prior to the date of the public hearing. Any plat submitted to the Planning Commission shall contain the name and address of all persons to whom notice of a public hearing shall be sent.
- 3.09.03** The applicant or the applicant's representative shall be present at the public hearing. Should the applicant choose to have a representative, the applicant shall formally designate the representative by letter to be submitted to the City Planner prior to the date of the public hearing. Should the applicant and/or their representative be absent, the public hearing shall be postponed, and an Extension Request Fee according to the current schedule of fees established by the City Council of Bay Minette and the cost of re-advertisement shall be paid before being placed back onto the Planning Commission agenda.
- 3.09.04** The Planning Department shall place a sign with the statement: Public Hearing, Subdivision Proposed for This Property. Said sign shall be placed on the property not less than seven (7) days prior to the date of the public hearing.

### **SECTION 3.10 POWERS OF PLANNING COMMISSION AS TO SUBDIVISION ZONING**

The Planning Commission shall have the power to agree with the application upon use, height, area, or bulk requirements or restrictions governing buildings and premises within the subdivision, provided the requirements or restrictions do not authorize the violation of the then effective Zoning Ordinance. The requirements or restrictions shall be stated upon the plat prior to the approval and recording thereof and shall have the same force of law and be enforceable in the same manner and with the same sanctions and penalties and subject to the same power of amendment or repeal as though set out as a part of the City's Zoning Ordinance or Zoning Map.

### **SECTION 3.11 PRE-APPLICATION & SKETCH PLAT**

- 3.11.01** Applicants are urged to consult early and informally with the City Planner to facilitate the subdivision review process. A pre-application conference with City Staff is mandatory prior to submitting an

application for subdivision. The purpose of Pre-Application Conference is to acquaint the applicant with the regulations governing subdivision, procedures for approval, and other agencies or officials who must approve any part of a subdivision plat. The applicant may provide a Sketch Plat at the time of the conference. Neither the applicant nor the Planning Commission are bound by considerations delivered during the Pre-Application Conference.

**3.11.02** The Sketch Plat is intended to be a relatively simple conceptual drawing of the proposed subdivision, submitted prior to the preparation of the Preliminary Plat to enable the applicant to save time and expense in reaching general agreement with the Planning Commission as to the form of the plat and the objectives of these Regulations. See Appendix A for Submittal Requirements.

**3.11.03** City Staff will transmit copies of the Sketch Plat to all pertinent City Departments, County and State agencies and other officials and agencies, as may be applicable. The Sketch Plat will be placed on the Planning Commission agenda for the next available regular meeting for an informal review and recommendation. The subdivider shall be present at the Planning Commission meeting either personally or through a representative in order to discuss, answer questions, and explain the submission. Upon receipt of these findings and recommendations, the applicant may prepare and submit a Preliminary Plat application.

**3.11.04** After a Pre-Application Conference with City Staff, applicants for Minor Subdivisions are encouraged, but not required, to submit a Sketch Plat for review.

## **SECTION 3.12 MASTER PLAN**

**3.12.01** Where any subdivision or development site is to be developed in stages or phases, no preliminary plat for any fraction of the site shall be accepted for review unless a master plan is submitted or has been previously approved.

**3.12.02** The master plan shall be a conceptual plan showing the entire development site and all component stages or phases, and shall express the overall development concept for the site at build-out.

**3.12.03** The subdivider shall submit a written request for review and approval by the Planning Commission and a copy of said master plan. The master plan shall be of sufficient detail to show the proposed street, sidewalk and lot layout, drainage, utilities, detention, common, recreational, and landscaped areas.

**3.12.04** If the City Planner finds that any proposed preliminary plat substantially deviates from the approved master plan, a revised master plan must be approved by the Planning Commission prior to approval of further plats within the development. Examples of a substantial deviation includes an increase in the overall lot density; change in number of entrances, connections, or stub outs; decrease in proposed open space or amenity areas.

## **SECTION 3.13 PRELIMINARY PLAT**

The purpose of the Preliminary Plat is to provide a basis for construction of a proposed subdivision and its improvements. Planning Commission approval of the Preliminary Plat is tentative and revocable. It is to be considered only as approval of the design, with the understanding that the

Commission, City, and other officials and agencies will examine the grades of streets, the types of improvements, the layout of drainage and sewer and water systems, and may require changes to any engineering or construction details submitted by the Subdivider whenever required for the protection of the public interest.

**3.13.01** Following Sketch Plat approval, the subdivider shall submit a complete application for Preliminary Plat to the Planning and Development Services Department prior to a regularly scheduled Planning Commission meeting and in accordance with the established Meeting and Application Deadline Schedule. The Preliminary Plat is intended to be a detailed presentation of the site; the Preliminary Plat shall include engineering plans for the construction of all improvements.

**3.13.02** Submittal Requirements. Applicants for a Preliminary Plat shall first submit to the Planning and Development Services Department the following preliminary plat, plans and relevant documentation as specified herein and in Appendix A Submittal Requirements. The checklist may be modified at the discretion of the City Planner when applicable:

1. A complete application on such forms provided by the Planning and Development Services Department.
2. Proof of ownership, such as a copy of a recorded warranty deed of the property proposed for development, or written permission from the property owner stating the applicant has the authority to act as agent on behalf of the owner.
3. Four (4) sets of 24" x 36" prints of the proposed subdivision and construction plans prepared in accordance with the requirements of this section, one (1) 11" X 17" copy of the plat and a digital format of the plans prepared in accordance with the requirements herein. See Appendix A Submittal Requirements
4. Documentation from all applicable utility companies detailing service availability, stating their capacity and willingness to provide service.
5. List of adjacent property owners as specified in Appendix A Submittal Requirements. Names and addresses shall be from the latest records of the Baldwin County Revenue Commissioner's Records and the accuracy of the list shall be the applicant's responsibility. Where land adjacent to the subject property involves leasehold property, the names and addresses of the landowner and the leasehold improvements shall be notified.
6. Other documentation as deemed necessary by the City Planner.

**3.13.03** Plat Content. The Preliminary Plat shall be prepared by a registered engineer or land surveyor and shall be clearly and legibly drawn at a convenient scale of not less than one (1) inch equals one hundred (100) feet, and the sheets shall be numbered in sequence if more than one (1) sheet is used. The sheet shall be 24" x 36" and shall contain all information as detailed in Appendix A Submittal Requirements. The checklist may be modified at the discretion of the City Planner when applicable.

**3.13.04** At the time of submission of the Preliminary Plat, the applicant shall also submit construction plans for all required improvements. All plans shall meet the minimum standards of design and general requirements for the construction of public improvements as set forth in these Regulations.

Construction plans shall be drawn at a scale of not less than one (1) inch equals fifty (50) feet and map sheets shall be of the same size as the Preliminary Plat. Construction plans shall be prepared by a Registered Engineer.

- 3.13.05** The applicant shall submit a preliminary plat and applicable documents as may be necessary to any and all applicable utility companies, local, state and/or federal agency for review.
- 3.13.06** No Preliminary Plat shall be approved by the Planning Commission until each utility affected has submitted a letter to the Planning Commission as to whether the service to be provided by such utility is reasonable and adequate.
- 3.13.07** Planning Commission Action. Presentation to the Planning Commission of Preliminary Plat at a regularly scheduled meeting constitutes formal submission of said plat. At such meeting, the Planning Commission will review the plat and, after a public hearing, have the option to take the following actions:
1. Approve the Preliminary Plat as presented.
  2. Approve the Preliminary Plat with conditions.
  3. Disapprove the Preliminary Plat
  4. Delay action on the Preliminary Plat
- 3.13.07.01** If approved subject to conditions, the nature of the required modifications shall be stated in the hearing and presented to the subdivider in writing. If necessary, the Commission may require the subdivider to submit a revised preliminary plat prior to obtaining development permits.
- 3.13.07.02** If the Planning Commission disapproves the preliminary plat, the reasons for such action shall be stated in the hearing, presented to the subdivider in writing and documented in the records of the Planning Commission. Reference shall be made to the specific section(s) of the regulations with which the preliminary plat does not comply.
- 3.13.07.03** Delay action on the Preliminary Plat
- The Planning Commission shall act to approve or disapprove a subdivision plat within thirty (30) calendar days after its formal submission at a regularly scheduled Planning Commission meeting. If the applicant waives this requirement and consents to an extension, the Planning Commission may defer action on the plat for a period not to exceed an additional thirty (30) calendar days. If no action is taken within the initial 30-day time period, or if there is no action taken within the extension period, such plat shall be deemed to have been approved, and notification to that effect shall be issued by the Planning Commission on request.
- 03.13.08** Approval Within Thirty Days
- The Planning Commission shall approve or disapprove a plat within thirty (30) days after the submission thereof to it, otherwise such plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the Commission on demand; provided, however, that the applicant for the commission's approval may waive this requirement and consent to an extension of such period.

**03.13.09** Expression of Approval

Planning Commission approval of the Preliminary Plat shall not be deemed as final plat approval or authorization for official recording and shall not be entered on the plat. In accordance with state law, Preliminary Plat approval is a tentative and revocable endorsement of a subdivision prior to the construction or installation of improvements. Said approval shall be authorization to begin work, to proceed with the construction of all minimum improvements as detailed in Article 5 Required Improvements including the grading of streets, and staking of lots, etc.

Planning Commission approval shall not constitute the City of Bay Minette's acceptance of any street or other public or open space displayed on the plat. Planning Commission approval of a Preliminary Plat is deemed an expression of approval of the layout as submitted on the preliminary plat. The Planning Commission files shall retain one copy of the Preliminary Plat.

**03.13.10** Effective Period

**03.13.10.01** Approval of the Preliminary Plat shall be effective for a period not to exceed one (1) year from the date of Planning Commission approval and shall thereafter expire and be considered null and void, if no development permits have been acquired for the project. The preliminary plat and any applicable City of Bay Minette development permits shall become void one (1) year from the issuance of the permit if no substantial building or construction activity has occurred.

**03.13.10.02** Prior to the expiration of the Preliminary Plat or initial development permit, a Request for Subdivision Extension of one (1) year may be granted by the Planning Commission for the approved preliminary plat and development permit.

**03.13.10.03** If no construction activity has occurred after the expiration of the Extension, the Request for Subdivision Extension may be considered for renewal by the Planning Commission within sixty (60) days of the expiration date. The Request for Extension shall not be renewed for a period exceeding one (1) year. In no circumstances shall a preliminary plat or related development permit be granted an extension beyond this time. The preliminary plat and development permit shall automatically be deemed null and void. The subdivider shall be required to resubmit the preliminary plat application for Planning Commission approval.

**03.13.11** Changes or Modifications

Any change or modification to a Preliminary Plat shall be submitted to the Planning Commission for approval. If any modification is deemed substantial, an application for Extensive Plat Amendment shall be submitted to the Planning Commission. The Amendment Request shall be subject to a public hearing and the developer will be responsible for the cost of advertisement and an application fee according to the current schedule of fees established by the City Council of Bay Minette.

**03.13.12** Limitation on Resubmission

If the Planning Commission denies a request for Preliminary Plat approval, no further subdivision applications for the same parcel or a portion thereof shall be accepted by the Commission within 180 days from the date of such denial, unless a new, complete application is submitted which clearly



corrects, resolves, or mitigates all deficiencies and/or other areas of non-compliance identified as the basis of denial.

## **SECTION 3.14 CONSTRUCTION OF IMPROVEMENTS**

### **3.14.01 Installation of Improvements**

Upon the installation of all required improvements, and prior to the submission of an application for Final Plat Approval, the developer or owner shall request final inspection from the City of Bay Minette, and any applicable Baldwin County or State officials. Final Inspection Reports shall be submitted at the time of application for Final Plat Approval.

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

Before the Final Plat is approved, the applicant must complete all improvements required by these Regulations or provide a financial guarantee of performance of the same as provided for in Article 6 Construction and Maintenance of Improvements. All public improvements must be dedicated to the City free and clear of all liens and encumbrances.

**3.14.02** Installation must conform substantially to the Preliminary Plat, as approved, and if desired by the applicant, it may constitute only that portion of the approved Preliminary Plat proposed to be recorded for Final Plat, provided, however, that such portion conforms to all the requirements of these Regulations.

**3.14.03** After completion of the above, the applicant may apply for Final Plat approval.

**3.14.04** During construction, waste receptacles and construction vehicles and equipment may not be placed on streets in a manner that will create a traffic hazard or obstruct vehicular traffic or emergency access.

### **3.14.05 Presentation and Approval of the Final Plat**

Within one (1) year of the date of preliminary plat approval, or prior to the expiration of an approved Request for Subdivision Extension, the subdivider shall submit to the Planning Commission the Final Plat for its approval in accordance with these Regulations.

## **SECTION 3.15 AS-BUILT PLANS**

The developer shall submit an as-built survey of all infrastructure and utilities, including streets, sidewalks, sanitary sewer and storm drainage facilities, and water lines, with plan and other pertinent information, which may include profiles if necessary, prior to final plat approval. Redlined or mark-up of approved construction plans may be acceptable.

## **SECTION 3.16 FINAL PLAT**

The purpose of the Final Plat is to provide an accurate record of street and property lines and other elements being established on the land and the conditions of their use. The Final Plat must conform substantially to the approved Preliminary Plat. All inspections and testing must be completed and

approved by the Subdivision Official prior to the Final Plat being placed on the agenda for Commission action. A Final Plat may include only that portion of the approved Preliminary Plat, which the Subdivider proposes to record and develop at that time. If it is submitted in portions, each portion must individually conform to all requirements of these Regulations.

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

**3.16.01** Final approval will be considered only for subdivisions or portions of subdivisions that meet the requirements of 3.14 Construction of Improvements. Or, in the case of Minor Subdivisions which do not involve any new street or drainage improvements, the extension of public facilities, nor the creation of any public improvements, after the required Pre-Application Conference. If qualified, those subdividers shall submit a complete application for Final Plat to the Planning and Development Services Department prior to a regularly scheduled Planning Commission meeting and in accordance with the established Meeting and Application Deadline Schedule.

**3.16.02** Submittal Requirements for Final Plat: The final plat shall conform to the conditions of the tentatively approved preliminary plat. It shall show sufficient detailed data to readily determine and to accurately reproduce on the ground the location, bearing and length of every street line, lot line, boundary line, block line and building line. The plat shall be clearly drawn on a sheet (not larger than a 24" x 36" inches in size) at a scale of not less than one hundred (100) feet to the inch. Applicants for Final Plat shall first submit to the Planning and Development Services Department the following preliminary plat, plans and relevant documentation as specified herein and in Appendix A Submittal Requirements:

1. A complete application on such forms provided by the Planning and Development Services Department with application fee.
2. Four (4) large-format prints and a digital format of the Final Plat and As-Built construction plans prepared in accordance with the plat requirements herein.
3. Submit a petition for street acceptance on prescribed forms accompanied by a street maintenance bond in an amount equal to twenty percent (20%) of the total street, utility, and drainage improvements in the subdivision; certification of improvements form signed and sealed by the design engineer and a street test report from an independent testing laboratory noting satisfactory condition of the street.
4. If applicable, submit a financial guarantee of performance of the remaining minimum improvements and a certified cost estimate of any/all remaining work to be completed
5. Private restrictive covenants and deed restrictions
6. All inspection reports and permits
7. Applicable test reports
8. Other documentation as deemed necessary by the City Planner.

**3.16.03** Final Plat Content

- 3.16.03.01** The final plat shall conform to the conditions of the approved preliminary plat. It shall show sufficient detailed data to readily determine and to accurately reproduce on the ground the location, bearing and length of every street line, lot line, boundary line, block line, and building line.
- 3.16.03.02** The plat shall be clearly drawn on a 24" x 36" sheet, at a scale of not less than one hundred (100) feet to the inch, and shall contain all information shown on the current checklist for a final plat (see Appendix A), which may be modified at the discretion of the City Planner when applicable.
- 3.16.04** Financial Guarantee of Completion
- 3.16.04.01** The subdivider shall be responsible for the full installation of all required minimum improvements in the proposed subdivision prior to the submission of a final plat application to the Planning Commission. In lieu of full installation of minimum improvements, after no less than ninety percent (90%) of the minimum improvements have been installed, a developer may issue a financial guarantee with surety to the City ensuring that the remaining minimum improvements shall be completed.
- 3.16.04.02** One (1) or more of the following may be accepted as a financial guarantee with surety payable to the City of Bay Minette:
1. a letter of credit approved by the City Administrator and City Attorney, or
  2. a cash deposit to be held by the City, or
  3. a certified check from an Alabama lending institution in an amount not to exceed one hundred and fifty percent (150%) of the cost of the required improvements remaining.
- 3.16.04.03** A cost estimate for any remaining civil improvements shall be certified and submitted by the design engineer with the application for final plat approval; a cost estimate of any remaining landscaping improvements must be certified and submitted by the professional landscape architect with the application for final plat approval and the financial guarantee.
- 3.16.05** Street Maintenance Bonds:
- 3.16.05.01** The developer/owner shall submit a Street Maintenance Bond payable to the City which shall be valid for a period of two (2) years. The bond shall be in an amount equal to twenty percent (20%) of the total street, utility, and drainage improvements in the subdivision. Said bond shall be required as a condition to dedication and acceptance of any new streets within the corporate limits. The City Administrator shall determine the adequacy of said bond and security thereon.
- 3.16.05.02** The Street Maintenance Bond period shall begin upon the acceptance of the street and drainage improvements by resolution of the City Council. No less than thirty (30) calendar days prior to the expiration of said maintenance bond, an inspection shall be conducted by an Engineer designated by the City to ensure that the improvements are in satisfactory condition prior to acceptance.
- 3.16.05.03** Based on the recommendations of the Engineer and other applicable City Staff, the City Planner may release or extend a street maintenance obligation for a period of time no greater than one (1) year. Upon approval of an extension of the original Street Maintenance Bond period, the developer shall submit to the Planning Department sufficient proof of the extended bond, and the City Administrator shall determine the adequacy of said extended bond and security thereon.

**3.16.06** Planning Commission Action:

Presentation to the Planning Commission of Final Plat at a regularly scheduled meeting constitutes formal submission of said plat. At such meeting, the Planning Commission will review the plat and, after a public hearing, have the option to take the following actions:

**3.16.06.01** Approve the Final Plat as presented.**3.16.06.02** Disapprove the Final Plat.

If the Planning Commission determines that the Final Plat is in conflict with the approved Preliminary Plat or with the Subdivision Regulations, said plat may be disapproved. The reasons for such action shall be stated in the hearing, presented to the subdivider in writing and documented in the records of the Planning Commission. Reference shall be made to the specific section(s) of the regulations with which the Final Plat does not comply. The developer may resubmit the Final Plat application for Planning Commission review after the noted deficiencies have been corrected.

**3.16.06.03** Delay Action on the Final Plat.

The Planning Commission shall act to approve or disapprove a subdivision plat within thirty (30) calendar days after its formal submission at a regularly scheduled Planning Commission meeting. If the applicant waives this requirement and consents to an extension, the Planning Commission may defer action on the plat for a period not to exceed an additional thirty (30) calendar days. If no action is taken within the initial 30-day time period, or if there is no action taken within the extension period, such plat shall be deemed to have been approved, and notification to that effect shall be issued by the Planning Commission on request.

**3.16.07** Expression of Approval**3.16.07.01** Approval and recordation of the final plat does not constitute the acceptance of any street or other public space shown on the plat. After approval of the Final Plat and the construction of streets, the Commission may recommend to the City Council that it accept the streets and take over their perpetual maintenance. Specific City Council resolution accepting streets and/or other public spaces is required as noted herein.**3.16.07.02** Approval of the final plat by the Planning Commission shall authorize the owner, subdivider, or his agent, to have said plat recorded in the Office of the Judge of Probate of Baldwin County.**3.16.07.03** The plat shall be filed prior to the sale of any lot in the subdivision. Copies of all private covenants, deed restrictions, and certifications shall be filed with the final plat. Once approval has been given and endorsed in writing on the plat by the Planning Commission, no changes, erasures, modifications or revisions shall be made on said plat.**3.16.07.04** In the event that any subdivision plat, when recorded, contains changes which have not been approved by the Planning Commission, said plat shall be considered null and void, and the Planning Commission shall then file the corrected plat as approved, noting the reason for such filing. Any erasures made on a plat prior to its signing shall be initialed and dated by the Planning Commission Chairman or other authorized agent and/or the City Planner, at the time of the signing.

**3.16.07.05** Upon receipt of Planning Commission's approval, it shall be the responsibility of the developer to:

1. Record the approved Final Plat within a period of one (1) year following the date of such approval.
2. Upon recording, the owner or developer shall furnish a copy of the recorded plat and recorded restrictive covenants.
3. Upon recording, the owner or developer shall furnish a copy of the Articles of Incorporation for the establishment of a property owner's association.

**3.16.08** Legal Status of Streets

The City of Bay Minette shall not accept, open, improve, maintain, grade or light any street right(s)-of-way and/or drainage and utility easement; authorize water mains, sanitary sewer, or connections to be made to any street, unless:

1. The street right(s)-of-way is a part of a subdivision plat approved by the Planning Commission; and,
2. Such street has been accepted or otherwise granted the legal status of a public street; and,
3. The right(s)-of-way corresponds with a street shown on or is compatible with the Comprehensive Plan; and,
4. Petition for acceptance and dedication of the street right(s)-of-way and drainage and utility easement(s) has been accepted and adopted by City Council Resolution.

## **SECTION 3.17 EXEMPTIONS**

As described herein, the following subdivisions and resubdivisions are not subject to the provisions of these Regulations.

**3.17.01** For exempt subdivisions hereunder, no public hearing shall be required, but the subdivisions shall be subject to review and approval of the City Planner for compliance with the requirements contained in this Section. Any subdivider or developer who appears to be circumventing the intent and substance of these Regulations may be required to submit a plat for review and approval by the Planning Commission and shall be subject to the penalties under Section 3.18 of these Regulations.

1. Subdivision of land by testamentary or intestate provisions.
2. Subdivision of land by court order including, but not limited to, judgments of foreclosure.
3. The public acquisition by purchase or donation of strips of land for the widening or opening of streets or for other public uses.
4. Common property lines are being reconfigured where no new lots are being created and involves no street or other public improvements

5. The subdivision of property into three (3) or less lots, tracts or parcels for the limited purpose of sale, deed or transfer of land by the owner to qualifying family member(s) and not within a previously recorded subdivision and involves no street or other public improvements. Each parcel which is subdivided pursuant to this subparagraph shall have deeded ingress/egress and utility access or easement that runs with the land of not less than 30 feet in width. A qualifying division hereunder is limited to a division among the following designated legally related immediate family members: Spouse, children, siblings, parents, grandparents, grandchildren, nieces, nephews, or step-related individuals of the same status.

### **3.17.02** Procedures

**3.17.02.01** For exemption requests herein, a public hearing is not required. Applicants shall be required to submit the following to the Planning and Development Department:

1. a completed Subdivision application and application fee in accordance with the current schedule of fees established by the City Council;
2. a plat or survey of the original parcel, drawn to scale, indicating any existing structures (with dimensions) and the setbacks from property lines;
3. a plat or survey of the proposed configuration, drawn to scale, indicating any existing structures (with dimensions) and the setbacks from proposed property lines;
4. Affidavit of Restrictive Covenants as detailed in subsection 3.17.06 herein;
5. a warranty deed for all parcels involved that includes an accurate description of the lots/parcels as proposed; and
6. any additional documentation deemed necessary to complete the review.

**3.17.03** In addition to the requirements set forth above, the following standards must be satisfied:

**3.17.03.01** The final configuration of all exempt subdivisions shall consist of three (3) or less lots and shall not contain any public improvements, nor require the expenditure of any public funds.

**3.17.03.02** Each lot created hereunder shall comply with all minimum lot size and setback requirements otherwise specified by the provisions herein or by provisions of the Zoning Ordinance.

**3.17.03.03** Maintenance of any easements, together with all improvements thereto, shall be the responsibility of all parties to which it is granted by written agreement or deed reference, and shall be noted on a recorded plat. Neither the City nor the County shall be responsible for any easement or improvements thereto.

**3.17.04** In the event the property to be divided is an existing lot (or lots) of record in a Regulatory Subdivision, the applicant shall be required to cause a certified plat to be recorded in the Office of the Probate Judge of Baldwin County upon receiving an exemption hereunder. The new plat reflecting the resubdivision of such lot or lots shall contain the following dedication and certificates (see Appendix B for sample certificates):

1. Licensed Surveyor's Certificate and Description of Land Platted
2. A Notarized Owner's Dedication
3. A Certificate of Approval by the Subdivision Property Owner's Association (if applicable)
4. A Certificate of Approval by Baldwin County E-911
5. A Certificate of Approval by the City Planner.

- 3.17.04.01** Said plat shall be appropriately labeled and named as a resubdivision or replat of the Regulatory Subdivision or lots thereof, and all lots shall have a number and be numbered sequentially.
- 3.17.04.02** If approved by the City Planner, the plat shall be recorded in the Office of the Judge of Probate of Baldwin County, Alabama as a subdivision and receive a Slide Number.
- 3.17.05** In the event the property to be divided is an existing parcel (or parcels) from a Pre-Regulatory Subdivision, the applicant shall be required to cause a survey to be recorded in the Office of the Probate Judge of Baldwin County upon receiving an exemption hereunder. The survey shall detail parcel dimensions, reflect the existing configuration and proposed reconfiguration of the parcel(s), and any existing structures with setbacks.
- 3.17.05.01** Said survey shall be appropriately labeled and include an accurate legal description of all parcels involved with the Point of Beginning noted for each.
- 3.17.05.02** If approved by the City Planner, the survey shall be recorded in the Office of the Judge of Probate of Baldwin County, Alabama as a survey and receive a Survey Number. The deeds required to be filed to complete the Exempt Division shall include an accurate metes and bounds description of the parcel and a reference to the Survey and its assigned number.
- 3.17.06** The owner of each parcel approved as exempt under this Section shall be required to submit, as a condition to such approval, an affidavit executed by such owner attesting, under oath, that there exist no restrictive covenants of record in the Office of the Judge of Probate of Baldwin County, Alabama which would prohibit the subdivision of the parcel for which an exemption is sought pursuant to this subparagraph.
- In the event a parcel is approved as exempt under this subparagraph, and it is later determined that such subdivision was prohibited by valid restrictive covenants recorded as of the date of such approval, the City Planner, or their designees, shall have the authority to revoke such exempt subdivision approval and to assess the cost of such approval and revocation on the party who executed the affidavit required hereby.
- 3.17.07** Official recording.
- 3.17.07.01** No plat or description of land subdivided as set forth in herein shall be filed in the Office of the Probate Judge, Baldwin County until such plat shall have been authorized for recording and signed by the City Planner.

- 3.17.07.02** The approved exemption letter, survey or certified plat and related deeds shall be recorded upon receipt of an exemption. If the required documentation has not been filed in the Office of the Probate Judge, Baldwin County within 90 days from the date of the exemption letter, the exemption shall be deemed null and void. The proposed subdivision will be required to submit a new request for exemption in accordance with this section.
- 3.17.08** Any subdivider who appears to the Planning Department to be circumventing the intent and substance of these Regulations shall be required to submit a certified plat for review and approval by the Planning Commission.
- 3.17.09** Any property included as part of an exempt subdivision shall not be eligible for consideration for further subdivision as an exempt subdivision for a period of one (1) year from the date of the last exempt or administrative subdivision.
- 3.17.10** Exemption from the requirement for approval to subdivide does not constitute exemption from the requirements of other applicable regulations including but not limited to state law, zoning regulations, other municipal ordinances, Health Department requirements or, where applicable, the regulations of Baldwin County Planning Department or Highway Department.

## **SECTION 3.18 PENALTIES**

Whoever, being the owner or agent of the owner of any land located within a subdivision, transfers or sells or agrees to 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 in the records of the Office of the Judge of Probate of Baldwin County, shall forfeit and pay a penalty of one hundred dollars (\$100.00) for each lot or parcel so transferred to be sold or agreed or negotiated to be sold; and the description of such lot or 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 such penalties or from the remedies herein provided. The City of Bay Minette may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover the same penalty by a civil action in any court of competent jurisdiction.

## **SECTION 3.19 WAIVERS**

Where the Planning Commission finds that extraordinary hardship or practical difficulties may result from strict compliance with these Regulations and/or the purposes of these Regulations may be served to a greater extent by an alternative proposal, the Commission may approve waivers or modifications to these Regulations under the conditions specified herein. Any waiver granted shall be entered upon the minutes and the reason for the modifications specified therein.

### **3.19.01** Standards for the granting of a waiver or modification:

1. An unusual or experimental subdivision, which the Commission determines may prove of considerable merit toward the use of unusual materials in constructing required improvements, or a new or untried concept in the area which appears promising.



2. The condition(s) upon which the request for a modification is based are unique to the specific site and not generally applicable to other property.
3. Due to the particular physical surroundings, shape, or topographical conditions of the specific property involved, an extraordinary hardship may result with the strict compliance of these Regulations.
4. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property.
5. Such waivers or modifications shall be the minimum deviation from the required standard necessary to relieve the hardship.
6. Such waivers shall not have the effect of nullifying the purpose and intent of these Regulations, the Zoning Ordinance, or the Comprehensive Plan.

**3.19.02** Conditions. In granting waivers or modifications to these Regulations, the Commission may require such conditions that will, in its judgment, achieve the purpose of these Regulations and secure the objectives and interests of the City.

**3.19.03** Procedures.

1. Waivers must be submitted in writing at the time of Preliminary Plat submission and the request will be considered by the Planning Commission at the time the plat is considered. The request shall state fully the grounds for the application and demonstrate hardship or unique circumstances that make compliance with these Regulations difficult.
2. Public Hearing Notifications sent to adjacent property owners shall include a description of any waiver requested.
3. Any waiver granted must be entered upon the minutes stating the grounds for the waiver.

## **SECTION 3.20 SPECIAL PROVISIONS**

**3.20.01** Nonresidential Subdivisions. It is recognized that the applicant, in creating nonresidential subdivisions/developments, faces unique problems of lot design not normally encountered in residential subdivisions. For this reason, the initial emphasis of the Planning Commission shall be upon street layout and block arrangement. Generally, the procedural requirements shall be for the applicant to follow the regular procedure outlined in Section 3.13 and to show the entire tract to be subdivided with necessary improvements and as many parcels as he cares to show but must include at least two parcels. Then, from time to time, as prospective buyers express interest in lots sized to their required specifications and following informal discussions with the Planning Commission if the applicant so requests, the applicant shall submit directly at a regular meeting of the Planning Commission an amendment to the preliminary plat for approval. Regular procedural requirements of the Planning Commission following receipt of a Final Plat shall then apply.

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. The following principles and standards shall be observed:

- 3.20.01.01** Proposed nonresidential street layout, blocks, and parcels shall be suitable in area and dimensions to the types of development anticipated.
- 3.20.01.02** Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas, nor connected to streets intended for predominantly residential traffic, but shall be connected insofar as is possible to expressways, arterial, or collector streets in such a way that the number of intersections with such expressways, arterial, or collectors shall be minimized.
- 3.20.01.03** Street rights-of-way and pavement shall be adequate and in accordance with Section 4.16 to accommodate the type and volume of traffic anticipated to be generated thereon. Curb radii at driveway intersections shall be at least twenty-five (25) feet.
- 3.20.01.04** The applicant shall insure that the nonresidential subdivision as a whole may be self-sufficient with regard to providing necessary off-street parking. The applicant may make parking self-sufficiency a requirement of individual lots.
- 3.20.01.05** With respect to physical improvements, special requirements may be imposed by the Planning Commission with the advice of the City Planner within the nonresidential subdivision.
- 3.20.01.06** Every effort shall be made to protect adjacent residential areas from potential nuisances from nonresidential subdivisions, including the provision of extra depth in parcels backing up on existing or potential residential developments and provision for a permanently landscaped buffer strip when necessary.
- 3.20.02** Planned Unit Developments. A comprehensive group development including the large-scale construction of housing units together with necessary drives and ways of access, may be approved by the Planning Commission although the design of the project does not include standard width of streets, lots and other subdivision arrangements if the departure from the required standards contained herein can be made without destroying their intent. A master plan for such comprehensive group development shall be submitted to the commission for approval, provided that approval of the master plan shall not constitute approval of individual plats for phased development of the master plan over a period of years.

## **SECTION 3.21 ISSUANCE OF PERMITS, CERTIFICATES OF OCCUPANCY**

- 3.21.01** Building permits may be issued for a subdivision under construction provided the extent of street improvements is adequate for vehicular access by the prospective builder, police equipment and fire apparatus. However, no Building Permit may be issued for the final two lots, or ten percent of lots, whichever is greater, within a subdivision until all public improvements have been accepted by the City.

Notwithstanding the above, no building permit may be issued for any lot for which there is not both a live fire hydrant within 600 feet of the lot and an all-weather surfaced-street giving access to the lot from a dedicated street.

**3.21.02** No Certificate of Occupancy for any building in the subdivision may be issued prior to the completion and dedication of the improvements to the City, in accordance with the approved Final Plat.

## **SECTION 3.22 VACATION OF PLATS**

**3.22.01** Any plat or any part of any plat may be vacated by the Subdivider at any time before the sale of any lot therein, by a written instrument, to which a copy of the plat must be attached, declaring the plat to be vacated.

**3.22.02** Plat vacation is approved by the Commission in the same manner as subdivision plats. The City Council may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

**3.22.03** Such an instrument must be executed, acknowledged, or approved, and recorded or filed, in the same manner as subdivision plats; and being duly recorded or filed destroys the force and effect of the recording of the plat, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in the plat.

**3.22.04** When lots have been sold, the plat may be vacated in the manner herein provided by all the owners of lots in the plat joining in the execution of such vacation.

## **SECTION 3.23 VACATION OF PUBLIC RIGHTS-OF-WAY**

**3.23.01** Pursuant to the Code of Alabama, 1975, the City has the authority to vacate right-of-way with specific processes outlined therein. The Planning and Development Services Department will administer and process all requests to vacate right-of-way in accordance with State Code and this section.

**3.23.02** General Standards

**3.23.02.01** Where a portion of the width of a right of way is proposed to be vacated, a minimum right-of-way width should be maintained as follows:

1. Cul-de-sac 50 feet
2. Local 50 feet
3. Collector 60 feet
4. Arterial 80 feet

**3.23.02.02** Where a length of right-of way is proposed to be vacated, the vacation should extend the entire length of the block whenever possible.

**3.23.02.03** The vacation may not deprive property owners of any right they may have to convenient and reasonable means of ingress and egress to and from their property, and if that right is not afforded by the remaining streets and alleys, another street or alley affording that right must be dedicated.

**3.23.02.04** Entities with utility lines, equipment, or facilities in place at the time of vacation, have the right to continue to maintain, extend, and enlarge their lines, equipment, and facilities to the same extent as if the vacation had not occurred.

- 3.23.02.05** Drainage and utility easements will be retained where public infrastructure is located.
- 3.23.02.06** Title and all public rights, including the right to close the vacated street, alley, or highway vests in the abutting landowners.
- 3.23.03** Vacation of Right-of-Way by Abutting Property Owners
- 3.23.03.01** Where owners of property abutting any portion of a street, alley, or other public way within the City, may desire the vacation of such abutting right-of-way, to combine it with or add it into private property, they may request its annulment and vacation from public use and ownership by filing an application for hearing before the Planning Commission and City Council. Vacation of public rights-of-way may be initiated by the owners of abutting property or by the City in accordance with Section 23-4-20 and 11-49-6 of the Code of Alabama, 1975, as amended.
- 3.23.03.02** No street or easement may be vacated unless a petition for that purpose, accompanied by the necessary documents specified herein, is submitted through the Planning Commission to the City Council. The Planning Commission shall review such petition and make recommendations to the City Council, whose decision, following a public hearing, shall be final.
- 3.23.04** Procedures. Applicants proposing to vacate any portion of the right-of-way of public streets, alleys, or public ways, shall submit to the City an application on the prescribed form with a written petition and all other related documentation as required herein concerning the requested vacation.
- 3.23.04.01** Initial Review. In an effort to reduce the burden on citizens and City Staff, a written request for vacation shall be evaluated by applicable City Departments, including Administration, Streets and Sanitation, Fire, and Police, as well as the City Engineer and North Baldwin Utilities for evaluation of impacts of the proposal on current and potential public needs. If the Initial Review does not indicate any justification for rejection, the applicant may progress with the full application for vacation. If any cause is found for rejection, the applicant shall be notified and has full discretion to continue with the application process.
- 3.23.04.02** Applicant Responsibility
1. It shall be the responsibility of the owner or owners of the land abutting the street to be vacated to pay all administrative fees and advertising costs as may be required.
  2. Section 11-49-6 of the Code of Alabama, 1975, as amended, provides that a city council may require abutting property owners who will benefit from a right-of-way vacation to pay a vacation of right-of-way fee equal to the fair market value of the land which will be added to the holdings of the abutting landowners. The fair market value of the property must be calculated by the City Council according to specific criteria and a public hearing conducted.
  3. It is responsibility of the applicant(s) to provide all required submittals in such form as required herein, including but not limited to appropriate Petitions to Vacate, survey or plat as applicable, certified legal descriptions, cost of required advertising and public notice, and any necessary recording fees.
- 3.23.04.03** Submittal Requirements

1. A completed Petition to Vacate must be submitted, signed by all owners of property abutting the portion of right-of-way requested for vacation.
2. Five (5) copies of a survey which at a minimum depicts the right-of-way proposed to be vacated and all abutting parcels of real property, in a format to be clear and legible, but not to exceed 24" x 36."
3. Certified legal descriptions from a licensed surveyor for quit-claim deed(s) for (1) for the whole property to be vacated as well as (2) a separate legal description for the portion going to each abutting property owner. The legal descriptions must also be submitted in a Word or .PDF digital format.
4. A proposal regarding the consideration that is being offered for the vacation in accordance with Section 11-49-6 of the Code of Alabama, 1975, as amended, and detailed in subsection 3.23.04.02(2) herein.
5. A notification list must be furnished identifying the names and addresses, as shown in the Baldwin County Revenue Commissioner's Office, of all owners of property abutting the portion of right-of-way proposed for vacation, and all owners of property abutting any right-of-way to remain in the same block or abutting block face, where access rights may be affected. The list shall identify and include the names and current mailing addresses of any entities known to have facilities or equipment such as utility lines, both aerial or buried, within the public right-of-way of the street or alley proposed to be vacated.

**3.23.04.04** Following receipt of a complete application, the Planning Department shall coordinate with the City Clerk to schedule a Public Hearing for the Planning Commission and City Council and provide public notice as provided by law.

1. Notice of the public hearing is published in a newspaper of general circulation once a week for four consecutive weeks prior to the public hearing by the City Council.
2. A copy of the notice is posted on a bulletin board at the county courthouse.
3. A copy of the notice is served by U.S. mail at least 30 days prior to the scheduled City Council meeting to all abutting property owners and all landowners that are affected by the vacation.
4. A copy of the notice is served by U.S. mail at least 30 days prior to the scheduled City Council meeting on any entity known to have facilities or equipment such as utility lines, both aerial or buried, within the right-of-way to be vacated.

Said notice shall describe the street, alley, highway, or portion thereof proposed to be vacated and gives the date, time, and location of the Planning Commission and City Council meetings at which the proposed vacation is scheduled to be addressed.

**3.23.04.05** Any citizen alleging to be affected by the proposed vacation may submit a written objection to the City or may request an opportunity to be heard at the public hearings.

- 3.23.04.06** Any petition for vacation of easement and/or right-of-way may be withdrawn prior to action thereon by the Planning Commission or City Council at the discretion of the owner, authorized representative, firm, or corporation initiating such a request upon written notice to the City Planner.
- 3.23.05** Application submittal does not guarantee approval. In making its determination regarding a vacation, the Council, on receipt of a recommendation from the Commission, will take into consideration the following criteria:
1. No vacation shall deprive other property owners of any right they may have to convenient and reasonable means of ingress and egress to and from their property.
  2. Vacation of the right-of-way will better serve the public good than changing the right-of-way and/or the public way it contains
  3. The right-of-way is no longer needed for the public use it was originally created to serve
  4. The public benefit received from the right-of-way is insufficient to justify maintenance costs of the right-of-way
  5. Future development or other changes in the surrounding area will not increase public use or need for the right-of-way.
- 3.23.06** City Council Approval
- 3.23.06.01** The City Clerk shall prepare a resolution for the City Council to consider the right-of-way request, that shall:
1. Describe accurately the right-of-way, or portion thereof, to be vacated.
  2. Give the names of the owner or owners of the abutting lots or parcels of land.
  3. Give the names of the owner or owners of lots or parcels of land, if any, which will be cut off from access thereby over some other reasonable and convenient way.
  4. Set forth that it is in the interest of the public to vacate the right-of- way.
- 3.23.06.02** If, following the public hearing, the City Council determines that vacating the right-of- way is in the public interest, a resolution as described above must be approved by majority vote of the Council.
- 3.23.06.03** The approved resolution is filed, by the City Clerk, in the Office of the Judge of Probate, Baldwin County, along with the petition, declaration and quit-claim deed(s).
- 3.23.06.04** Notice of the City Council action is published by the City Clerk, once in a newspaper of general circulation no later than 14 days after its adoption.
- 3.23.07** Following approval by the Council of a right-of-way vacation, a certified plat must be submitted and approved by the City Planner to combine the vacated right-of-way with abutting lots. Said plat shall show the reconfiguration of the property lines to be established in accordance with City Council approval. Said plat shall be submitted as an Exempt Subdivision in accordance with Section 3.17 of these Regulations.

**3.23.08** Vacation of Right-of-Way Initiated by the City Council

The Planning Department will administer and process requests to vacate right-of-way initiated by the City Council in accordance with Section 23-4-2 of the Code of Alabama as follows:

**3.23.08.01** The Planning Department shall coordinate with the City Clerk to schedule a Public Hearing for the Planning Commission and City Council and provide public notice as provided by law.

1. Notice of the public hearing is published in a newspaper of general circulation once a week for four consecutive weeks prior to the public hearing by the City Council.
2. A copy of the notice is posted on a bulletin board at the county courthouse.
3. A copy of the notice is served by U.S. mail at least 30 days prior to the scheduled City Council meeting to all abutting property owners and all landowners that are affected by the vacation.
4. A copy of the notice is served by U.S. mail at least 30 days prior to the scheduled City Council meeting on any entity known to have facilities or equipment such as utility lines, both aerial or buried, within the right-of-way to be vacated.

Said notice shall describe the street, alley, highway, or portion thereof proposed to be vacated and gives the date, time, and location of the Planning Commission and City Council meetings at which the proposed vacation is scheduled to be addressed.

**3.23.08.02** Any citizen alleging to be affected by the proposed vacation may submit a written objection to the City or may request an opportunity to be heard at the public hearings.**3.23.09** City Council Approval**3.23.09.01** The City Clerk shall prepare a resolution for the City Council to consider the right-of-way request, that shall:

1. Describe accurately the right-of-way, or portion thereof, to be vacated.
2. Give the names of the owner or owners of the abutting lots or parcels of land.
3. Give the names of the owner or owners of lots or parcels of land, if any, which will be cut off from access thereby over some other reasonable and convenient way.
4. Set forth that it is in the interest of the public to vacate the right-of- way.

**3.23.09.02** If, following the public hearing, the City Council determines that vacating the right-of- way is in the public interest, a resolution as described above must be approved by majority vote of the Council.**3.23.09.03** The approved resolution is filed, by the City Clerk, in the Office of the Judge of Probate, Baldwin County, along with the petition, declaration and quit-claim deed(s).**3.23.09.04** Notice of the City Council action is published by the City Clerk, once in a newspaper of general circulation no later than 14 days after its adoption.

**3.23.10** Following approval by the Council of a right-of-way vacation, a certified plat shall be submitted for review by the City Planner to combine the vacated right-of-way with abutting lots. Said plat shall show the reconfiguration of the property lines to be established in accordance with City Council approval. Said plat shall be evaluated as an Exempt Subdivision in accordance with Section 3.17 of these Regulations.

**3.23.11** Appeals. Any party affected by the decision of the City Council to vacate any right-of-way may appeal within 30 days of the decision to the Circuit Court.

## **SECTION 3.24 SPECIFICATIONS FOR SUBMITTAL DOCUMENTS**

Documents specified herein shall be submitted in accordance with this section and Appendix A Submittal Requirements, which may be modified at the discretion of the City Planner when applicable.

**3.24.01** Plans and Plats

**3.24.01.01** All plans and plats shall be prepared by a Registered Design Professional and submitted on 24" x 36" black or blue-line prints with a portable document format (PDF) file of the hard copy and other such formats as the City Planner requires.

**3.24.01.02** Applicants shall also submit one (1) 11"x17" copy of the Master Plan, Sketch Plat, Preliminary Plat or Final Plat prepared in accordance with the requirements of this section.

**3.24.01.03** Digital Files. All Preliminary Plats, As-Builts and Final Plats must include the following digital submittals:

1. A portable document format (PDF) file of the hard copy
2. A georeferenced GIS shapefile (.SHP) or CAD drawing (.DWG) file, or equivalent
3. SHP or DWG files must be georeferenced in Projected Coordinate System: NAD\_1983\_State Plane\_Alabama\_West\_FIPS\_0102\_Feet.

**3.24.01.04** At the time of Preliminary Plat approval, the applicant shall also submit construction plans. Construction plans shall be prepared by an Alabama licensed professional engineer and submitted on sheets not larger than 24"x36" and shall include plans and profiles of all proposed infrastructure, including streets, sanitary sewer lines and facilities, stormwater structures, water lines, and fire hydrants. Construction plans shall reflect the approved Preliminary Plat and shall include sufficient data and calculations to allow verification of conformity to the requirements and specifications in these Regulations.

**3.24.01.05** At the time of Final Plat approval, the applicant shall also submit an engineering plan, or "As-Built" plan, giving details of construction and locations of the improvements which have been installed. The primary purpose of the engineering plan is to provide the 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 bond, the engineering plan shall be submitted to the City upon request of release of the bond by the applicant.

**3.24.01.06** As-Built plans must be submitted in hard copy, no larger than 24"x36", and digital format. Digital format must include a portable document format (PDF) file of the hard copy and a georeferenced GIS



shapefile (.SHP) or CAD drawing (.DWG) file with adequate formatting and information to show the following:

1. Sewer main diameter, length, material, and slope are to be called out on the plan.
2. Sewer manhole and t-type cleanout rims and inverts are to be located horizontally and vertically. All as-built elevations to be shown.
3. Water main diameter, length, and material are to be called out. Show all laterals.
4. Water fire hydrants, valves (main & hydrant), plugs, air-release and blow-off stations are to be located horizontally and vertically. Documented or known changes in types, lengths of pipe, location, or any other changes to the water system shall be indicated.
5. Storm drainage pipe diameter, length, material, pipe invert and pipe outfall, and slope are to be called out.
6. Storm drainage manhole and t-type cleanout rims and inverts are to be located horizontally and vertically.
7. Storm drainage related catch basins, culverts, and outfalls are to be located horizontally and vertically.
8. Any other changes to the construction drawings should be noted and shown with a revision cloud.
9. Digital file submittals must include a portable document format (PDF) file of the hard copy and a GIS shapefile (.SHP) or CAD drawing (.DWG), or equivalent, georeferenced in Projected Coordinate System: NAD\_1983\_State Plane\_Alabama\_West\_FIPS\_0102\_Feet.