

# **City of Foley Subdivision Regulations**

**May 21, 2025**

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# **ARTICLE I. Purpose, Policy, Title and Interpretation**

## **1.1 - Purpose**

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

## **1.2 - Policy**

- A. It is hereby declared to be the policy of the City of Foley, Alabama to consider the subdivisions of land and the subsequent development of the subdivided land as subject to the control of the City of Foley Planning Commission pursuant to the authority granted to the City by the Code of Alabama (See 2.1- Authority).
- B. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. Land shall not be subdivided until proper provision has been made for drainage, water, sewage disposal and streets, and approval has been granted in accordance with the procedures prescribed in these regulations.
- C. Any owner of land, which lies within the area of jurisdiction of the City of Foley Planning Commission, who wishes to subdivide or re-subdivide such land into two or more lots, plats, sites, or other divisions of land for the purpose (whether immediate or future) of sale, lease, or building development shall submit to the City of Foley Planning Commission for approval, a plat of the subdivision, which shall conform to the minimum requirements set forth in these regulations.
- D. No subdivider shall proceed with any construction improvements or with the installation of utilities in a subdivision until such subdivision plat shall have been reviewed and granted Preliminary Plat approval by the City of Foley Planning Commission and detailed construction plans have been approved by the City Engineer.
- E. No subdivider shall proceed with the sale of lots or the erection of buildings, excluding required public improvements and utility structures, within a subdivision until such subdivision plat shall have been granted Final Plat approval entered in writing on the plat and signed by all required parties and recorded in the Office of the Probate Judge of Baldwin County or bonded in accordance with the procedures prescribed in these regulations.

## 1.3 - Title

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

## 1.4 - Interpretation

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

## 1.5 - Street Tree Planting Requirements

All frontages, public or private, must provide street trees as outlined in Section 5.13.

## 1.6 - Design Standards

All referenced standards are from the most recent adoption of the City of Foley's Land Development Ordinance (LDO) and Subdivision Regulations (SDR).

Minimum Design for Roadway Construction:	LDO; Section 3-5.2
Curbs & Gutters:	LDO; Section 3-5.3
Intersection, Tangents, and Horizontal Curves:	LDO; Section 3-5.4
Cul-de-Sac & Dead End Roads	LDO; Section 3-5.5
Right of Way:	LDO; Section 3-5.6
Common Driveways:	LDO; Section 3-5.7
Roadway Name & Signage:	LDO; Section 3-5.8
Sidewalks:	LDO; Section 3-5.9
Minimum Lighting Requirements	LDO; Section 3-5.10
Street Trees:	SDR: Section 5.13

## **ARTICLE II. Authority and Jurisdiction**

### **2.1 - Authority**

Under the provisions of Section 11-52-30 to 11-52-36, inclusive of the Code of Alabama (recompiled 1975), which provisions are hereby made a part hereof, these following regulations governing the subdivision of land are hereby adopted by the Foley City Planning Commission at its meeting on May 21, 2025, by resolution. A copy of these regulations shall be certified to the Probate Judge of Baldwin County, Alabama, and to the City Clerk of Foley, Alabama.

### **2.2 - Jurisdiction**

On and after May 21, 2025, these Subdivision Regulations shall apply to all subdivisions of land, as defined herein, located within the corporate limits of the City of Foley and within five (5) miles of the corporate limits, unless a separate or subsequent agreement between the City of Foley and the Baldwin County Commission states otherwise.

### **2.3 - More Stringent Regulations Apply in the Planning Jurisdiction**

In the event that the City of Foley Planning Commission is exercising any planning jurisdiction over an area outside the City of Foley corporate limits pursuant to an agreement with Baldwin County, in those areas outside the corporate limits of the City, the more stringent of the Baldwin County Subdivision Regulations or these Subdivision Regulations shall apply.

## **ARTICLE III. Definitions**

### **3.1 - Usage**

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

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

### **3.2 - Words and Terms Defined**

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

ADEM: The Alabama Department of Environmental Management.

ALDOT: The Alabama Department of Transportation.

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

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

Arterial: (See Street, Arterial).

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

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

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

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

Building line: (See Setback line).

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

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

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

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

County: Baldwin County, Alabama.

Collector Streets: (See Streets, Collector).

Corner Lot: (See Lot, Corner).

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

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

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

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

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

Development: Includes, but is not limited to, the design work of lot layout, the construction of drainage structures, the construction of buildings and public use areas, the planning and construction of public streets and public roads, and the placement of public utilities. Developments include but are not limited to subdivisions.

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

Double frontage lot: (See Lot, through).

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

Easement: A grant by a property owner of the use of land for a specified purpose or purposes by the general public or a corporation, or person(s); or as created by operation of law. No title to real property is conveyed.

Environmental Permit: The environmental permit includes the construction best management practices plan, tree survey and landscape plan for land disturbing activities over 1/2 acre, as approved by the Environmental Division.

Expressway: (See Street, Expressway).

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

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

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

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

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

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

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

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the

water surface more than a designated height. For the purpose of these regulations, floodways shall be defined as follows:

- A. The floodways as identified or delineated in the Flood Insurance Study for County, Alabama.
- B. Along Small Streams and Watercourses. All lands lying within 25 feet of the top of the bank of the channel (measured horizontally), unless the developer demonstrates to the satisfaction of the City of Foley Planning Commission that a lesser distance (but not less than 15 feet) is adequate based on the watershed characteristics and probable storm runoff for the base flood.

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

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

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

Health Department: The Baldwin County Health Department.

Immediate Family Member: (A) the husband or wife of the person; (B) the natural or adoptive parent, child, or sibling of the person; (C) the stepparent, stepchild, stepbrother, or stepsister of the person; (D) the father-, mother-, daughter-, son-, brother-, or sister-in-law of the person; (E) the grandparent or grandchild of the person; and (F) the spouse of a grandparent or grandchild of the person.

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

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

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

- A. The lands identified as having special flood hazards by the Office of Federal Insurance and Hazard Mitigation. The lands identified as subject to inundation by the base flood and all lands lying below the base flood elevations as demonstrated by the maps and

charts contained in the Flood Insurance Study for Baldwin County, Alabama, as prepared by the Federal Emergency Management Agency, Offices of Federal insurance and Hazard Mitigation, and all subsequent revisions thereto, which are made a part of these regulations.

- B. Along Small Streams and Watercourses. All lands lying within 100 feet of the top of the bank of the channel (measured horizontally) unless the developer demonstrates to the satisfaction of the City of Foley Planning Commission that the property in question is free from the danger of inundation by the base flood or that adequate remedial measures have been taken to allow the watercourse to safely accommodate the base flood. The developer shall submit such data or studies based on the watershed characteristics, probable runoff, and other topographic and hydraulic data prepared by a licensed professional engineer as the City of Foley Planning Commission may reasonably require to adequately make its determination of the flood susceptibility of the property.
- C. Other low lying property that accumulates stormwater and retains for a significant period, due to the topography of the land.

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

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

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

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

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

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

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

Lot, interior: A lot other than a corner lot.

Lot line: The boundary line of a lot.

Lot line, front: On an interior lot, the lot line abutting a street; on a corner lot, the shorter lot line abutting a street; on a through lot, the lot line abutting the street providing the primary

means of access to the lot; on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained.

Lot line, rear: The lot line opposite and most distant from the front lot line.

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

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

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

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

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

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

Minor street: (See Street, Local).

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

Manufactured Dwelling (MD): Also known as a “mobile home,” is a single-family detached housing built to the National Manufactured Housing Construction and Safety Standards Act of 1974, including manufactured homes and mobile homes. All manufactured housing must be certified by the Alabama Manufactured Housing Commission before occupancy.

Manufactured Dwelling (MD) Park: A tract of land under unified control which has been

developed with all necessary facilities and services in accordance with a development plan meeting all requirements of these Regulations, which is intended for the express purpose of providing a satisfying living environment for residents of three or more mobile/manufactured dwellings on a long term occupancy basis.

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

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

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

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

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

Planning Commission: The City of Foley Planning Commission.

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

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

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

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

Recreational Vehicle (RV): A motorized or towable vehicle designed for temporary human habitation, including travel trailers, motorhomes, camper vans, truck campers, and similar vehicles.

Recreational Vehicle (RV) Park: A tract of land under unified ownership which has been developed with all necessary facilities and services in accordance with a development plan meeting all the requirements of these Regulations, and which is intended for the express purpose of providing a satisfactory living environment for the residents or three or more travel trailers on a temporary basis - not to exceed 90 days.

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

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

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

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

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

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

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

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

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

- A. Expressway or freeway: A facility which has the main function to accommodate a high volume of traffic for a considerable distance through the prohibiting of ingress and egress except at controlled intervals. A freeway involves complete control of access while an expressway permits access at grade intersections at infrequent intervals.
- B. Arterial: A street that connects areas which produce large numbers of trip generations. An arterial functions to move traffic and to provide access to land uses, particularly high trip-generating non-residential activities. Arterials may be further classified as Principal or Minor.
- C. Collector: A collector street has the primary function of collecting traffic from an area

and moving it to the arterial street system while also providing substantial service to abutting land use. Collectors may be further classified as Major or Minor.

- D. Local street: A local street is one whose primary function is to service abutting land use. This includes cul-de-sacs, marginal access streets, residential access streets, country lanes and single purpose streets.
- E. Marginal access street: A road separating abutting land areas from arterial streets. A service road in commercial areas intended to remove terminal traffic from arterials and allow them to fulfill their high volume, high speed function. An access street in residential areas intended to remove local traffic from arterials and to buffer abutting residential lots from the detrimental effects of highway traffic by use of park strips, screen plantings or other measures, as well as to limit the number of direct driveway accesses to arterials for safety purposes.
- F. Cul-de-sac: A minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.
- G. Single purpose street: A two-directional one-lane local street. A major subdivision shall not be permitted to take access from a single purpose street.

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

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

Subdivision, minor: (See Minor Subdivision).

Surety: Any surety bond, certificate of deposit, irrevocable letter of credit, cashier's check, or other acceptable surety as accepted.

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

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

Watercourse: Any depression serving to give direction to a flow of water, having a bed and well-defined banks. The flow of water need not be on a continuous basis, but may be intermittent, resulting from the surface runoff of precipitation.

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

and similar areas.

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

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

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

## **ARTICLE IV. Application Procedure & Approval Process**

### **4.1 - General**

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

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

### **4.2 - Exemptions from Subdivision Requirements**

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

- A. Subdivision of land by testamentary or intestate provisions;
- B. Subdivision of land by court order including, but not limited to, judgments of foreclosure;
- C. Family Exemption (City Limits). These Subdivision Regulations shall not apply to the sale, deed, or transfer of land by the owner to an immediate family member. Each parcel shall have at least 30 feet of frontage on a publicly maintained right-of-way. The total number of lots is limited to five or fewer.
- D. Family Exemption (Planning Jurisdiction). These Subdivision Regulations shall not apply to the sale, deed, or transfer of land by the owner to an immediate family member. Each parcel shall have its own ingress/egress and utility access or easement that runs with the land of not less than 30 feet in width. The Planning Director or designee shall not issue an Exempt Subdivision Verification without first requiring the following documents to verify that each proposed grantee is an immediate family member: (i) An affidavit executed by each proposed grantee certifying their relationship as an immediate family member to the owner/grantor, and (ii) A copy of a birth certificate or equivalent document verifying the family relationship between the grantee and the grantor.
- E. The public acquisition by gift or purchase of strips or parcels of land for the widening or

opening of streets or for other public uses;

- F. The division of land wherein the size of each and every resulting parcel of land equals or exceeds ten (10) acres and involves no street or other public improvements. Each parcel shall have at least 60 feet of frontage on a publicly maintained right-of-way or private street built to City standards;
- G. The construction or development of roads on private property to be used for agricultural purposes;
- H. A "one-time" split of a single parcel into two parcels, if, and only if, the parcel existed and has not been divided since July 1, 1991. Sufficient documentation of property status as of July 1, 1991 must be submitted along with a request for exemption.
- I. The relocation of a common property line between two parcels where no new parcels are created, or the deletion of property lines resulting in a reduction of the number of lots. The revised parcels shall meet minimum lot size and width requirements and frontage requirements in section 4.2C.

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

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

- 1. Licensed Surveyor's Certificate and Description of Land Platted;
- 2. A Notarized Owner's Dedication;
- 3. A Certificate of Approval by the Subdivision Property Owners Association (if applicable);
- 4. A Certificate of Approval by the City of Foley Engineer;

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

## **4.3 - Pre-Application**

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

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

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

Neither the applicant nor the City shall be bound by the pre-application review; and it is expressly understood that favorable consideration by the City at the pre-application stage of the process shall under no circumstance be construed as preliminary or tentative approval.

Manufactured Dwelling and Recreational Vehicle Parks shall first obtain Planning Commission Site Plan approval conforming to Article XI of Ordinance 387-87 (latest amendment) and the applicable Subdivision Regulations prior to submitting for Engineering LDO/LDP review.

Provide proposed street names to the Community Development Department and E911. The names will be reviewed and approved prior to preliminary plat application.

## **4.4 - Preliminary Plat**

### **A. Application Procedure**

1. The application and applicable fees shall be submitted in accordance with the Planning Commission application deadline schedule. The application deadline and meeting date may vary based on holidays or extenuating circumstances.
2. The Preliminary Plat shall meet and/or exceed the minimum standards of design and general requirements for construction of public improvements set forth in the City of Foley, Alabama Land Development Ordinance and other required City ordinances. The Preliminary Plat application must include all information, as

required on the current departmental checklist for Preliminary Plat which may be modified at the discretion of the Planning Commission.

3. Subdivision application packet which includes the following:
  - a. Completed application
  - b. Deed/Proof of ownership
  - c. Utility availability letters
  - d. 3 - Full size preliminary plats 1 -  
11"x17" plat  
1 - Overall development plan for phased subdivisions Digital  
copy of plat
  - e. 2 - Copies of mailing labels for adjacent property owners
  - f. Application Fee
  - g. Submittal letter from Baldwin County if in the Planning Jurisdiction

#### B. Review and Approval

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

## 4.5 - Final Plat

### A. Application Procedures:

1. The applicant/developer shall submit two (2) sets of full sized as-built plans, plus 1 electronic version in Adobe PDF format to the Engineering Department, and schedule a final inspection at least 15 business days prior to final plat submittal. The subdivision infrastructure must meet all applicable regulations as outlined in the City of Foley, Alabama Manual for Design and Construction Standards, the Environmental Ordinance and other applicable ordinances.

The City Engineer shall be authorized to sign all copies of the final plat. The owner/developer shall have the signed copies recorded in the Baldwin County Office of the Judge of Probate. The final plat shall be filed prior to the sale of any lot in the subdivision. The owner/developer shall furnish the City of Foley a copy of the said plat upon recording.

2. The application/developer will provide a final plat to the Engineering Department for City staff review and approval.
3. Once all parties have approved, the plat will be signed for recording.
4. The applicant/developer will provide a copy of the recorded plat to the Community Development Department to close the file.

### B. Irrevocable Performance Bond

1. If an irrevocable performance bond is being used in lieu of the infrastructure being complete, the required infrastructure shall be completed to a minimum of 85% of the improvements and all required sidewalks shall be in place.
2. A draft irrevocable performance bond must be submitted to the City attorney for review at least fifteen (15) days prior to final plat approval.
3. The irrevocable bond shall be from the owner of said subdivision and in an amount no less than one hundred and fifty percent (150%) of the cost of the required improvements.
4. The irrevocable performance bond shall be effective until such time as the maintenance bond is issued or one year from date of issuance.
5. All irrevocable performance bonds shall contain an "Evergreen Clause" stating:

“This bond/letter of credit expires on\_\_\_\_\_, but will automatically extend without amendment for an additional two year period from the expiration date, or any future expiration date unless at least thirty (30) days prior to such expiration date we notify you by overnight courier, that this bond/letter of credit will not be extended. Upon receipt by you of such notice, you may draw on us hereunder by means of your sight draft for an amount outstanding at the time of drawing.”

#### C. Irrevocable Maintenance Bond

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

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

## 4.6 - Final Plat

#### A. Plat Requirements

1. A current (within 60 days of application date) title policy, title opinion, or title report, verifying ownership shall be submitted if any ownership changes have taken place during the construction period.

## B. Planning and Engineering Review and Action

### **4.7 - Release of Surety**

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

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

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

1. After two years from the issuance of the irrevocable maintenance bond/letter/line of credit, the owner shall request to the City for release from the maintenance bond.
2. The City shall evaluate the improvements to determine if infrastructure improvements have been maintained as required.
3. If the requirements have been met under the irrevocable bond/letter/line of credit, the City shall release the owner from further obligations under said irrevocable maintenance bond/letter/line of credit.
4. If it is determined that the requirements have not been met the irrevocable bond/letter/line of credit may be extended, upon request, for one six (6) month interval to allow the owner additional time to correct the deficiencies which prohibited the release of the bond. If a site contractor is unable and/or unwilling to satisfy the deficiencies as determined by the City, the irrevocable bond/letter/line

of credit shall be forfeited with the irrevocable bond/letter/line of credit being payable to the City of Foley for the direction of such work and/or activities necessary for the maintenance of the required improvements. The owner of the property shall be liable for any additional cost incurred.

## **4.8 - Minor Subdivisions**

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

## **4.9 - Rural/Estate Subdivision**

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

- A. Standard Street Construction Components: 6" compacted sub-grade; 8" sandy clay base or 6" aggregate base; 1.5" asphalt binder; 1" 429-A wearing layer. Modified Construction Components: Minimum 18" improved sand subgrade; 8" granular soil base; 1.5" 429-A wearing layer.
- B. Minimum Street Width – Twenty (20) feet.
- C. No Curbs/Gutters: Open roadway ditches; drainage calculations must be submitted to support ditch capacities, grades, velocities, etc.
- D. Minimum Roadway Right-of-Way: Sixty (60) feet.
- E. Maximum Ditch Side Slopes: 3-1, horizontal to vertical; maximum roadway ditch depth twenty-four (24) inches with a minimum shoulder width of four (4) feet; maximum ditch depth may be exceeded with approval of the City.
- F. Street lights shall be provided on a staggered basis one hundred-fifty (150) feet apart. Street lights shall not be placed within the normal drainage ways of roadway ditches. Where street light poles will encroach on roadway drainage ways, easements shall be provided on the subdivision lots to accommodate the poles.

- G. Sidewalks shall be provided at the option of the subdivision developer.
- H. Where it is necessary to cross a roadway ditch to gain access to a lot, an adequately sized culvert providing a minimum travel width of twelve (12) feet shall be provided. Said culvert shall have slope paved end sections with a slope no steeper than 4 horizontal to 1 vertical.
- I. All permanent dead end roadways shall be provided with a City of Foley standard cul-de-sac per adopted construction standards.
- J. Drainage requirements are the same as for other subdivisions within the City of Foley.
- K. The maximum number of lots that may be served by a common driveway shall be two (2). The maximum length of a common driveway shall be three hundred-thirty (330) feet. Common driveways shall be contained within a private ingress/egress easement labeled as such on the final plat. Said easement shall be a minimum of thirty (30) feet in width. All subdivisions using common driveways shall provide for a Homeowners Association to be responsible for the maintenance of the common driveway.
- L. Extension of a rural/estate subdivision street(s) which will result in the rural/estate subdivision exceeding the maximum number of lots permitted by these regulations may do so only with approval of the City of Foley Planning Commission. At minimum, it will be necessary for the subdivider to provide an additional 1.5" of 429-A wearing course, or the current wearing course listed in the City of Foley Manual for Design and Construction Standards, to the existing rural/estate subdivision street. Further, additional strengthening measures may be required, based upon currently recognized engineering evaluation procedures as determined by a registered engineer.

## **ARTICLE V. Administration**

### **5.1 - General**

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

### **5.2 - Administration**

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

### **5.3 - Enforcement**

#### **A. General**

It shall be the duty of Planning Commission Staff to enforce these regulations and to bring to the attention of the City of Foley Attorney any violations or lack of compliance with these regulations.

#### **B. Violations**

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

#### **C. Penalties**

Violations of these regulations shall result in forfeiture and payment of a penalty of \$100.00 for each lot or parcel so transferred or sold. The City of Foley may also institute an injunction against such transfer or sale in any court of equity jurisdiction, or may recover the same penalty through civil action in any court pursuant to authority granted by the Code of Alabama. Further, no streets will be accepted for

maintenance by the City nor shall any utilities be extended to any subdivision found in violation of these regulations.

## **5.4 - Conflicts with other Laws**

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

## **5.5 - Conformity to City of Foley Comprehensive Plan**

All proposed subdivision plans shall conform to the City of Foley Comprehensive Plan, and subsequent amendments thereto, the Future Land Use Map, and the Foley Zoning Ordinance, when applicable.

Whenever a tract to be subdivided (as defined in Code of Alabama, 1975, §11-52-1(6)), embraces any part of a highway, major street, secondary street, or parkway so designated, such part of such proposed public way shall be platted or developed by the subdivider in the same location and at the same width as indicated on such City plan.

The Comprehensive Plan was adopted by the Planning Commission pursuant to Code of Alabama, 1975, §11-52-8 and §11-53-9.

## **5.6 - Deviations**

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

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

- A. The granting of the deviation will not be detrimental to the public safety, health, or welfare or injurious to other property.
- B. The conditions upon which the request for a deviation is based are unique to the property for which the deviation is sought and are not applicable generally to other property.

- C. Because of the particular physical surroundings, shape or topographical conditions of the property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out.

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

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

## **5.7 - Amendment**

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

## **5.8 - Severability and Separability**

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

## **5.9 - Vacation of Plat or Map**

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

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

## **5.10 - Public Use and Service Areas**

### **A. Easements for Utilities**

Except where alleys are provided for the purpose, the Planning Commission may require easements not exceeding ten (10) feet in width for poles, wires, conduits, storm and sanitary sewer, gas, water, or other utility lines on each side of the common rear lot line and five (5) feet for side lot lines if necessary or advisable in the opinion of the Planning Commission, and unless wider easements are required in the opinion of the City Engineer.

### **B. Suitability of the Land**

Land which the Planning Commission has found to be unsuitable for subdivision due to flooding, bad drainage, steep slopes, rock formation, or other features likely to be harmful to the safety, health, and general welfare of the future residents shall not be subdivided unless adequate methods approved by the Planning Commission are formulated by the subdivider for meeting the problems involved.

### **C. Planning Jurisdiction**

In carrying out the City's Planning Commission responsibility to the systematic and orderly development of the community through the regulation of a subdivision as defined in the Code of Alabama, 1975, §11-52-1(6), the geographic context of development in the community and whether municipal services are provided bear a significant correlation, and directly relates, to the public health and safety of the community. The City of Foley does not provide municipal services outside of its corporate limits.

Subdivisions in the Planning Jurisdiction must adhere to the following:

Minimum Lot Size	30,000 square feet
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Minimum Lot Width	100 feet
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City of Foley Land Development Ordinance (Ordinance 22-2028) Section 3.2 Conservation Areas is hereby incorporated by reference.

## **5.11 - Manufactured Dwelling Subdivisions**

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

## **5.12 - Manufactured Dwelling (MD) and Recreational Vehicle (RV) Parks**

### **A. Recreational Vehicle (RV) Parks:**

1. Stormwater Management Facilities and Infrastructure must comply with the City of Foley Stormwater Management standards per Section 3-3 of the City of Foley Land Development Ordinance..
2. Utilities. All utilities shall be sufficient for the number of sites/units. All water, sewer, and electrical connections must be equipped with quick-disconnect mechanisms to allow for rapid evacuation in emergencies. Utility availability letters in addition to proof of adequacy from the relevant utility providers is required. All utilities must be placed underground. Developers will establish utility maintenance plan and responsibility with utility owners.
3. Greenspace Requirements. Developments must comply with Greenspace Requirements of the City of Foley Land Development Ordinance per Section 3-2.
4. Road Ready Requirements. All RVs must remain fully mobile, roadworthy, and capable for quick departure at all times. No RV shall be permanently affixed to any structure, nor shall wheels or hitches be removed. Park models, manufactured homes, or any units not classified as recreational vehicles are not permitted.
5. Modifications to Approved Plans. Major changes, including modifications to site layout, density, road access, setbacks, or significant infrastructure changes, require Planning Commission approval. Minor changes, such as slight adjustments to landscaping, minor site plan amendments, or minor utility reroutes, may be approved administratively. Staff review and judgment will determine whether the change is considered major or minor.
6. Special Provisions in the Planning Jurisdiction:
  - (a) Density/Number of Sites /Units. Recreational vehicle parks located within zoned districts of the County shall comply with the applicable density requirements as established by Baldwin County. RV parks located in unzoned districts shall meet the following density requirements:
    - (i) The maximum number of sites/units for RV parks shall be 10 sites/units per acre to allow for adequate site/unit size and spacing.
    - (ii) The minimum lot size for a RV park shall be 3 acres.

(b) Setbacks and Spacing.

- (i) Each RV site/space shall have a minimum area of 1600 square feet.
- (ii) Each site/space shall have minimum dimensions of 20' by 80'.
- (iii) A minimum of 30' shall be maintained from all external site boundaries.
- (iv) A minimum of 30' shall be maintained between RVs and any permanent facility or structure with the park.
- (v) 30' minimum wetland buffer is required along established wetland boundaries.
- (vi) 50' minimum stream buffer required along waterways and ephemeral streams.

(c) Access and Internal Roadways.

- (i) Internal Roadways shall be constructed for safe travel and meet City of Foley Design Standards for New Road Construction. Parks with fewer than 15 sites shall construct all-weather road surface materials with edge containment. Roads shall be designed to uphold the 75,000lb fire truck apparatus. Parks with 15 or more sites must have asphalt or concrete roadways designed in conformance with the roadway design standards of the City of Foley Land Development Ordinance Section 3-5. The developer/owner is responsible for maintaining internal roadways, easements, and drainage facilities.
- (ii) Two-way internal roads shall be at least 24' wide. One-way internal roads shall be at least 20' wide. Additional width may be required for roads serving large RVs or emergency vehicles.
- (iii) Ingress/Egress: Dedicated entrance lane(s) is required for sites exceeding 50 sites. Turning radii at the entrance and internal intersections must accommodate the largest RV types. Minimum radius of 50' at intersection with existing public street is required.
- (iv) RV parks shall have direct access to an arterial or collector roadway. A plan sheet showing the

asphalt width and turning radii of the roadway and nearest intersections utilized for access to the RV park must be submitted. The plan sheet must include turning movements for the design vehicle that will be accessing the RV park.

- (v) A traffic study is required for developments of 50 or more sites/units or as required by the City Engineer.

## **B. Manufactured Dwelling (MD) Parks:**

1. Stormwater Management Facilities and Infrastructure must comply with the City of Foley stormwater management standards per Section 3-3 of the City of Foley Land Development Ordinance..
2. Utilities. All utilities shall be sufficient for the number of sites/units. Utility availability letters in addition to proof of adequacy from the relevant utility providers is required. All utilities must be placed underground. Developers will establish utility maintenance plan and responsibility with utility owners.
3. Open Space and Landscaping. Developments must comply with Greenspace Requirements of the City of Foley Land Development Ordinance.
4. Recreation Vehicle (RV) sites. Manufactured dwelling parks may not include RV sites unless legally recognized and existing before May 21, 2025.
5. Special Provisions in the Planning Jurisdiction:
  - (a) MD Parks located in the Planning Jurisdiction shall meet the minimum lot size of 30,000 square feet, with a minimum lot width of 100 feet.
  - (b) Setbacks and Spacing.
    - (i) 30' building setback required from any exterior property line or jurisdictional wetland.
    - (ii) 30' natural buffer required around jurisdictional wetlands
    - (iii) 20' minimum separation between structures.
    - (iv) 30' minimum wetland buffer is required along established wetland boundaries.
    - (v) 50' minimum stream buffer required along waterways and ephemeral streams.
  - (c) Access & Internal Roadways.
    - (i) A traffic study is required for developments of 50 or more sites/units or as required by the City Engineer.
    - (ii) Internal Roadways shall be constructed for safe

travel and meet City of Foley Design Standards for New Road Construction. Parks with fewer than 15 sites shall construct all-weather road surface materials with edge containment. Roads shall be designed to uphold the 75,000lb fire truck apparatus. Parks with 15 or more sites must have asphalt or concrete roadways designed in conformance with the roadway design standards of the City of Foley Land Development Ordinance Section 3-5. The developer/owner is responsible for maintaining internal roadways, easements, and drainage facilities.

## 5.13 - Street Tree Planting

All frontages, public or private, must provide street trees as outlined herein unless prohibited by law or regulation of another governmental entity with jurisdiction over the subject property.

### A) General

1. All developments must establish planting strips along all rights of way within the public frontage of a subdivision, unless otherwise specified by the Planning Commission.
2. In the case of private development, street trees are required as specified herein along primary drive aisles and at the perimeter of parking areas.
3. If immediate planting of required trees in the right-of-way/public frontage is not in the public's best interest, a minimum of two trees per lot frontage may be allowed when physical conditions dictate a hardship, as determined by the Planning Commission.
4. All installation of street trees must be performed prior to a final inspection as provided for in Section 4.6 of the City of Foley Subdivision Regulations.
5. Street trees for minor subdivisions, as defined by City of Foley Subdivision Regulations, will be considered on a case-by-case basis depending on location, character of the area, and physical site constraints. If constraints and/or conditions are identified that prove the public frontage cannot accommodate street trees, as approved by the Planning Commission, street trees may be moved to the private frontage as close to the street frontage as practicable. All plantings must be installed and inspected prior to final plat signature and recording.
6. These standards represent minimums and are not intended to limit additional tree plantings approved by the City.

### B) Location

The intent of this section is to create a safe and aesthetically pleasing street environment for drivers and pedestrians and promote healthy, thriving streetscapes, accommodating different modes of travel.

1. Canopy shade trees will be planted in the area between the sidewalk and curb line or edge of the roadway, approximately every 50 feet apart on center within the planting strip, except where an alternative design is approved by the Planning Commission (See Appendix A Street Cross Sections).

- Note: Planting strip width may vary based on street width, right-of-way width and street functional classification but in no case shall they be less than 10' in width unless approved by the Planning Commission when conditions warrant.
- 2. Canopy trees at maturity should have canopies that nearly touch and should be spaced at intervals that create a consistent canopy over the streetscape.
- 3. Street trees will not be located within:
  - Twenty feet of a streetlight;
  - Ten feet of all utility mains, services, and appurtenances;
  - Ten feet of a fire hydrant, manhole, or sewer inlet;
  - Thirty feet of an intersection;
  - An area blocking the view of traffic signs;
  - Ten feet of a driveway;
  - The valley of a drainage swale.
    - Distance measurements must be from the trunk of the tree at ground level to the object.
    - Exceptions to the above standards will occur within cul-de-sacs, elbows, and similar areas, with approval from the City.
- 4. Understory trees shall be planted in substitution for canopy shade trees where it has been demonstrated that overhead utility lines and fixtures would interfere with the normal maturing of canopy trees as approved by the Planning Commission.
- 5. Understory trees may be required between larger canopy trees to create diversity in scale and counteract gaps in density caused by streetlights, utilities, or driveway separation requirements. The minimum number of street trees must be maintained.
- 6. Trees shall be placed at the following set intervals:
  - a. Canopy shade trees: 50' on center
  - b. Understory trees: 35' on center
    - When site constraints interfere with the required planting intervals, they may be adjusted with approval from the City upon a written request specifying the constraints accompanied by a proposed planting plan.

### C) Species Diversity

1. All street tree planting must adhere to the following regulations to prevent uniform insect and disease damage and provide visual interest to the street. This species diversity standard is a minimum only. Extensive use of one tree species is prohibited.

2. Depending on the number of trees planted in the entire development, the following maximum percentage of any one species will be used:

Number of Trees	Minimum Number of Species
5-39	2 species
40-69	3 species
70 or more	4 species

3. A single species will be placed in no more than four consecutive locations on any one side of the street.
4. Species will be determined from the approved street tree list found in Appendix B.

#### D) Context and Character-Based Tree Planting

1. Depending on the location, context, and character of the area and the roadway design, a boulevard or median may be provided with trees in place of trees along the sidewalk, with the approval of the Planning Commission.
2. The applicant shall design a street tree plan corresponding to the subdivision's or developments character. In grid-like and traditional subdivision designs, trees should be planted formally and consistently, using trees of similar size and shape at regular intervals. In subdivisions of a semi-rural character with curvilinear streets, trees may be planted in informal patterns to mimic the randomness of nature through a staggered street tree plan.

#### E) Street Trees in the Downtown Overlay

1. Street trees shall be located in a planting bed not less than five feet wide by eight feet long between the street curb or edge of paving and the sidewalk. A minimum of 48 square feet of surface area per tree shall be provided.
2. Tree planting separation may be reduced in the pedestrian-oriented downtown area. A higher mix of understory trees may be required in downtown areas to reduce sidewalk root interference while providing appropriate aesthetic appeal and shading for pedestrian comfort.
3. Decorative planting bed barriers or fences may be required consistent with a style determined by the City.

#### F) Procedure, Installation, and Maintenance

These regulations ensure the efficient creation of the desired community environment, preventing costs to the developer for tree removal, replacement, or relocation, and preventing costs to the property owner or city for future maintenance or repair of avoidable damages.

Street trees shall be provided in addition to other planting requirements mandated by other ordinances or regulations.

1. A detailed landscape plan shall be submitted with the site plan approval, plat, or land development permit construction plans, depending on the nature of the application, consolidating the tree planting plan showing the locations of street trees, tree species, all utilities, manholes, fire hydrants, light posts, driveways etc. to ensure proper placement. Particular care should be taken to locate driveway locations to ensure trees are not altered, damaged, or removed during the construction process.
2. The City will inspect the locations and species variation on-site to affirm adherence to the approved street tree plan and must approve any alterations or departures from the originally approved plan.
3. Each street tree will be centered in the planting strip unless the parkway is used as a vegetated drainage swale. If a swale is indicated, the species and location will be determined by the City.
4. In the event of tree failure, replacement will be

required. Installation

1. All tree plantings shall be installed in accordance with American Standard for Nursery Stock (ANSI Z60.1) standards.
2. Trees selected for planting must be free from injury, pests, disease, nutritional disorders, or root defects, and must be of good vigor to ensure a reasonable expectation of survivability.
3. Canopy trees at the time of planting shall measure a minimum of three (3) inches in diameter, four (4) feet above grade, and shall measure a minimum of eight (8) feet in clear trunk.
4. Understory trees shall have an initial caliper diameter of at least one (1) inch and shall measure a minimum of five (5) feet in clear trunk.

Maintenance

All maintenance of trees must be performed in accordance with the American National Standards Institute (ANSI) A300 Tree Care standards.

1. The developer shall maintain all trees until the subdivision infrastructure has been accepted for maintenance by the City Council. Street trees shall be considered vegetation for purposes of maintenance bonds pursuant to the City of Foley Subdivision Regulations Section 4.5.b. Irrevocable Performance Bonds/Letter of Credit/Line of Credit.

2. For developments with private frontages (primary drive aisles) that will not be accepted for maintenance by the City, all plantings must be maintained in perpetuity. Damaged or diseased trees must be replaced.

#### G) Tree Protection Measures during Construction

In an effort to protect trees during home construction, commercial development, and other land development activities after planting, the following tree protection measures are designed to ensure the health and preservation of trees and to minimize construction impacts on them.

1. A Tree Protection Zone (TPZ) must be established based on the size of the existing tree at a minimum of 2 feet per inch of Diameter at Breast Height (DBH). For example, a tree with a 3-inch DBH requires a TPZ with a radius of 6 feet from the base of the tree.

#### Tree Protection Measures

1. Fencing:
  - TPZ fencing must be installed before construction begins and maintained throughout the construction period. Fencing must be located and placed as to not harm the root system.
  - Fencing must be highly visible, at least 4 feet high, and constructed of durable materials.
  - Signage of 6 square feet shall be placed on the exterior of the fencing indicating the tree protection zone.
  - The fencing should be placed at the edge of the TPZ and maintained throughout the duration of the construction or until a Certificate of Occupancy is issued.

#### H) Enforcement

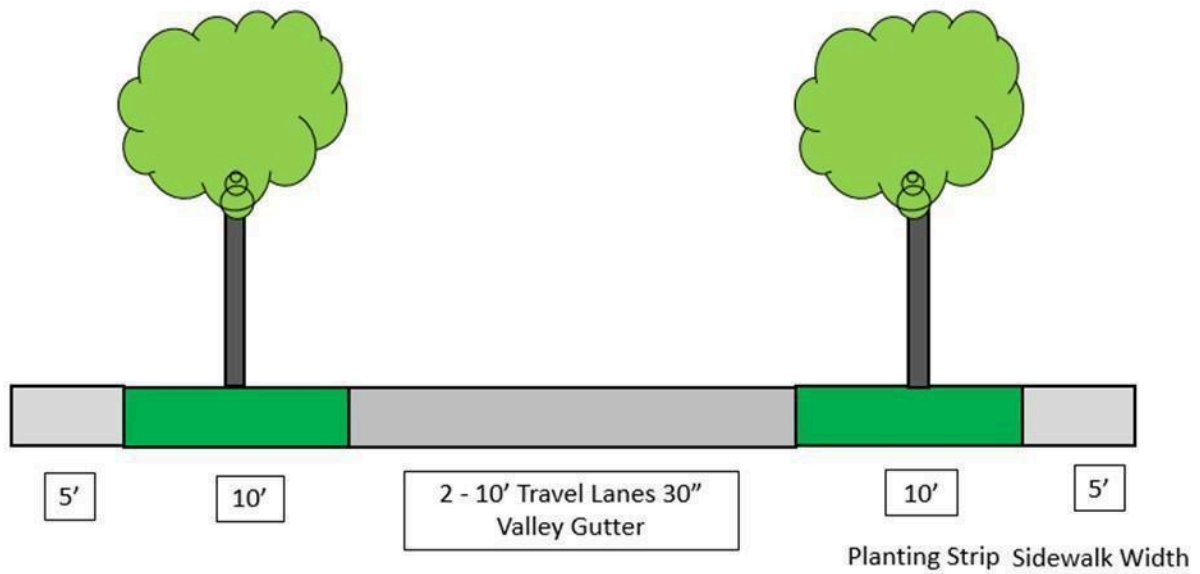
Removal or damage of plantings is considered a violation and may be remedied as provided by law, including but not limited to fines, stop work orders, or additional replanting.

#### I) Definitions

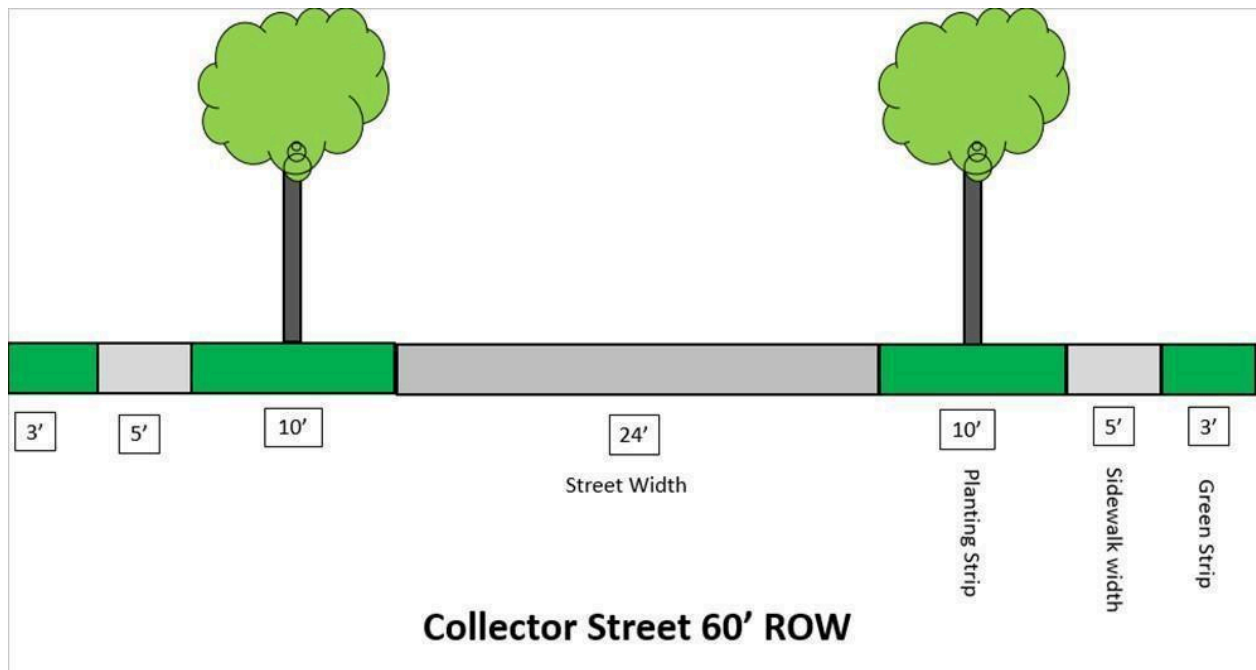
1. American National Standards Institute (ANSI): ANSI A300: The industry-developed, national consensus standards of practice for tree care in the United States.
2. American Standard for Nursery Stock (ANSI Z60.1): The industry-developed standard for commercial transactions providing standards and common techniques for:
  - Measuring plants,
  - Specifying and stating the size of plants,

- Determining the proper relationship between height and caliper, or height and width,
  - Determining whether a root ball or container is large enough for a particular size plant.
3. Canopy Tree: A tree whose mature canopy height is at least 35 feet.
  4. Diameter at Breast Height (DBH): The measurement of the width of the trunk of the tree at four and one-half (4½) feet above the existing grade. For multi-trunk trees, the DBH shall be the sum of the diameter of the trunks.
  5. Primary Drive Aisle: For the purposes of street tree planting within private developments a primary drive aisle is defined as the main vehicular route that connects the entrance of the development to individual units and key amenities. This drive aisle resembles a traditional street, supporting the highest traffic volume and providing primary access throughout the development.
  6. Private Frontage: The area of private property that directly abuts the public frontage.
  7. Protective Barrier: A physical structure limiting access to a protected area, composed of wood or other suitable materials which assure compliance with the intent of this article.
  8. Public Frontage: The space between the curb of the street and the property line of the adjacent land.
  9. Semi-rural: The transition area between the more intensely developed municipal incorporated areas and the unincorporated County, characterized by a density exceeding 1 dwelling unit per acre.
  10. Tree Protection Zone (TPZ): Restricted area around a tree to prevent damage.
  11. Understory Tree: A tree whose mature canopy height is between 15 and 35 feet.

## Appendix A: Street Cross Sections



### Local Street 50' ROW



## Appendix B

### Approved Native Species for Planting Canopy Trees:

1. American Beech (*Fagus grandifolia*)
2. American Hornbeam (*Carpinus caroliniana*)
3. American Sycamore (*Platanus occidentalis*)
4. Atlantic White Cedar (*Juniperus virginiana*)
5. Bald Cypress (*Taxodium distichum*)
6. Black Gum (*Nyssa sylvatica*)
7. Mockernut Hickory (*Carya tomentosa*)
8. Nuttall Oak (*Quercus nuttallii*)
9. Overcup Oak (*Quercus lyrata*)
10. Pignut Hickory (*Carya glabra*)
11. Red Maple (*Acer rubrum*)
12. Shumard Oak (*Quercus shumardii*)
13. Southern Magnolia (*Magnolia grandiflora*)
14. Southern Red Oak (*Quercus falcata*)
15. Sweetgum (*Liquidambar styraciflua*)
16. Swamp Chestnut Oak (*Quercus michauxii*)
17. Tulip Poplar (*Liriodendron tulipifera*)
18. 'Sand' Live Oak (*Quercus geminata*)
19. White Oak (*Quercus alba*)
20. Willow Oak (*Quercus phellos*)

## **Understory Trees:**

1. American Holly (*Ilex opaca*)
2. Carolina Buckthorn (*Frangula caroliniana*)
3. Chickasaw Plum (*Prunus angustifolia*)
4. Eastern Redbud (*Cercis canadensis*)
5. Fringe Tree (*Chionanthus virginicus*)
6. Red Buckeye (*Aesculus pavia*)
7. Sassafras (*Sassafras albidum*)
8. Serviceberry (*Amelanchier arborea*)
9. Wax Myrtle (*Myrica cerifera*)

These species were selected based on their root growth habits and their suitability for the coastal Alabama environment. Native species not listed may be used with the approval of the City, provided that the species are generally less aggressive in their root spread to protect hardscape from damage and will achieve the desired effect as provided herein.