

Amendments to Subdivision Regulations:

1.2 – Policy

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.

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 February 21, 2018 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 February 21, 2018 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.

3.2 – Words and Terms Defined

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.

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, of lease, or of building development. The term includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

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

- C. Family Exemption. These Subdivision Regulations shall not apply to the sale, deed or transfer of land by the owner to an immediate family member provided that at least one parcel abuts a public road, except that, in the event that there is any sale, deed, or transfer of land by the owner or an immediate family member to someone other than an immediate family member, these regulations shall then apply. Each parcel shall have its own perpetual legal means of ingress, egress and utility service (shared or non-exclusive easements are acceptable), and all ingress and egress easements shall have a minimum of 30 feet in width.

4.3 – Pre-Application 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.

Apply for Engineering and Environmental permits. Permits must be approved and ready to issue prior to preliminary plat application.

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 by noon at least seventeen (17) business days prior to the Planning Commission's regularly scheduled meeting. The application deadline and meeting date may vary based on holidays or extenuating circumstances.
- 2. Subdivision application packet which includes the following:
 - a. Completed application

- b. An approval letter from the Engineering, Environmental, Fire and other applicable Departments
- c. Deed/Proof of ownership
- d. Utility availability letters
- e. 3 – Full size preliminary plats
 - 1 - 11"x17" plat
 - 1 – Overall development plan for phased subdivisions
 - Digital copy of plat
- f. 2 – Copies of mailing labels for adjacent property owners
- g. Application Fee
- h. Submittal letter from Baldwin County if in ETJ

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

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.
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 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, a 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.

5.3 – Enforcement

A. 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.