LAND DEVELOPMENT ORDINANCE

TABLE OF CONTENTS

ARTICLE I

GENERAL REGULATIONS

1-1 TITLE & PURPOSE

1-1.1 Title

This ordinance shall hereafter be known, cited, and referred to as the City of Foley Land Development Ordinance.

1-1.2 Purpose

The City of Foley, Alabama, pursuant to the authority granted by Code of Alabama, in order to promote the health, safety, convenience, order, prosperity, and general welfare of the residents; to lessen congestion in the street; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to facilitate the adequate provision of transportation, water, sewerage, and parks; and other public requirements, hereby ordains and enacts into law an official Land Development Ordinance in accordance with the laws of Alabama. In their interpretation and application, the provisions of this Ordinance shall be:

- Considered as minimum requirements.
- Liberally construed in favor of the governing body.
- Deemed to neither limit nor repeal any other powers granted under state statutes.

1-2 AUTHORITY & JURISDICTION

1-2.1 Authority

The rules and regulations set forth herein are hereby adopted in accordance with Code of Alabama. Ordinance authority is specifically contained in Code of Ala. 1975, § 11-45-7.

1-2.2 Jurisdiction

The rules and regulations set forth shall apply to the following jurisdictions:

- On and after DATE this Land Development Ordinance shall apply to all developments of land, as defined herein, located within the corporate limits of the City of Foley and within the subdivision

developments within the Extra Territorial Jurisdiction, unless a separate or subsequent agreement between the City of Foley and the Baldwin County Commission states otherwise.

1-3 SEVERABILITY

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.

ARTICLE II

PERMIT REQUIREMENTS

2-1 LAND DEVELOPMENT PERMIT

2-1.1 General

Prior to any land disturbance for the development of commercial, multi-family or subdivision on any property in the corporate limits of Foley or the development of a subdivision within the defined extra territorial jurisdiction of the City of Foley, the developer or person in charge or control thereof shall make application to the Engineering Department and obtain a Land Development Permit ("LDP") authorizing development on the property in accordance with the provisions of this Ordinance.

All development activity on the property shall be under the supervision of a professional civil engineer licensed in Alabama. No development activity shall occur on any property in the area until a LDP has been issued pursuant to the provisions hereof. Construction work shall be completed by an Alabama licensed contractor who has the required field specialties to complete the work.

The Engineering Department and Environmental Department will coordinate in the authority over the LDP.

2-1.2 Application

A developer desiring to engage in development as herein defined shall make application for a LDP to the Engineering Department on a form provided for that purpose after fulfilling the pre-design meeting requirements. The application shall be complete, signed and provide all information (including design plans, necessary reports and construction best management practices plan) and the appropriate permit fee, as required. A complete application shall be submitted at least thirty (30) days prior to any planned development activity. An application will not be considered complete if any aspect of the land development plan or any supporting documents are not deemed sufficient or require revision or detail from the applicant during the review process by the Engineering or Environmental Departments. If necessary, the Engineering Department may suspend the review until all information is provided.

Following review by the Engineering and Environmental Departments of the completed LDP application and plans, comments will be returned to the engineer of record. After a third review by the Engineering and Environmental Departments of the permit package, if necessary, if there are still continued deficiencies or incomplete documents, the permit will be disapproved and the applicant will be required to reapply with fees.

2-1.3 Exceptions

LDPs are not required for following activities:

- Emergency repairs of a temporary nature made on public or private property which are necessary for the preservation of life, health or property and which are made under such circumstances where it would be impossible or impracticable to obtain a land development permit.
- Temporary excavation for the purpose of installing, maintaining, or repairing any public street, public utility facility or any utility service lines.
- Agricultural activities.
- Any lot within a subdivision or planned unit development having received final plat approval in accordance with applicable subdivision regulations, zoning ordinances and approved by the city engineer.
- Driveways or driveway approaches. (Driveway permit required instead in accordance with the provisions hereof)
- Modifications, alterations or additions to an existing single-family dwelling.
- Development activity on a lot for a single-family dwelling unit if the structure is not within a flood hazard area.

2-1.4 Permit Term

The LDP shall be effective for a time length of one (1) year from the date of approval. Upon expiration, the applicant may request up to two (2) extensions. Each extension grants an additional 90 days of coverage. The extension request shall be in writing and submitted to the Engineering Department prior to the expiration of the LDP. The extension may be denied based on noncompliance with applicable regulations or lack of progress as deemed by the City.

2-1.5 Permit Specifications

The permit shall assure all development and construction meets the requirements within this Ordinance and specifically including the following Articles: Site Design & Development Standards, Environmental Protection and Landscaping, Tree Protection, Buffer Zones & Lighting. All delineated wetlands, wetland buffers and stream buffers shall be flagged prior to permit issuance.

2-1.6 Permit Inspections and Termination of Permit

The Engineering and Environmental Departments may conduct random compliance inspections during the construction of the development. All deficiencies will be communicated in writing to the applicant and shall be addressed immediately. The applicant shall request termination of the LDP

when all activities are complete and stabilized with an inspection and approval letter from the Professional Engineer of record. For subdivisions, all common areas and rights-of-way shall be permanently stabilized. All lots shall be temporarily stabilized if lot construction activity will begin within 14 days or permanently stabilized if lot construction activity will not begin within 14 days. For all other developments, all areas shall be permanently stabilized prior to termination.

2-1.7 Enforcement

A stop work order shall be issued for activity that occurs without a valid LDP.

Upon inspection, if there are violations of this Ordinance, a warning may be issued to the site contact on the permit requiring compliance with this Ordinance within 48 hours of the notice or as soon as safe conditions allow.

Whenever the Environmental Department determines that sedimentation has occurred offsite onto right-of-way, in-stream or into stormwater management facilities, the sediments shall be removed or stabilized immediately based on a determination by the City.

The City Engineer may refuse approval of the final plat for subdivisions that fail to maintain compliance with design specifications.

Commercial developments that have not complied with design specifications may not receive the Certificate of Occupancy until all standards have been met.

Failure to comply with any section of this Ordinance is hereby deemed a violation and shall be sufficient cause for the City of Foley, through a Code Enforcement Officer, Engineering Department or Environmental Department, to issue an order suspending all work (a "Stop Work Order") on the land disturbing site until satisfactory measures are taken to comply with this Ordinance. If the Stop Work Order is violated or there are continued violations, a municipal offense ticket may be issued.

Any person that has violated or continues to violate this Ordinance shall be liable to criminal prosecution to the fullest extent of the law, and be punished by a fine of not less than one hundred dollars ($100.00), but not more than five hundred dollars ($500.00), or imprisonment not to exceed one-hundred and eighty days (180), or both. Each day of a continued violation is a separate offense. The City may recover all attorney's fees, court costs and other expenses associated with enforcement of this Ordinance.

2-2 MISCELLANEOUS PERMITS

2-2.1 Right-Of-Way Utility Permit

2-2.1.1 General

A Right-of-Way Permit is required for all work performed in a public right-of-way in the City of Foley. Nothing in this article is intended to impair the legal obligation of any contract, franchise, or easement previously granted by the city. Entities that have current Franchise Agreements with the City of Foley are exempt from this permit requirement. Compliance with the permitting requirements of this article shall not excuse any person from complying with all other requirements of law, including holding a valid franchise of the city. This article shall apply to all land within the corporate limits of the city as such corporate limits exist or may exist in the future. It shall be unlawful for any person to dig up, open, excavate, construct or to cause to be dug up, opened, excavated or constructed, any street, alley, sidewalk, drainage ditch or other public right-of-way in the city without first obtaining a Right-of-Way Utility Permit.

When the work must commence immediately because of an emergency the permittee shall comply with the specifications and obtain a permit as soon as practicable. No permits shall be required for the following activities:

- Installation of and repair of facilities by or for the City of Foley departments, AL Department of Transportation and Baldwin County Highway Department; and
- Installation of landscaping materials which are or may grow to a height of not more than eighteen (18) inches.

Applicants may be allowed, if determined by the Engineering Department, to obtain in advance, an annual permit for minor projects outside roadway limits and some small projects that involve minimal excavation. The Engineering Department shall have authority over the Right-of-Way Permit.

2-2.1.2 Application

An application for a right-of-way permit shall be submitted to the Engineering Department on the required form. The application shall be complete with exact locations, depth, extent, timeline, nature and purpose of the work, and appropriate permit fee, as required. A complete application shall be submitted at least ten (10) days prior to any planned project. Construction may begin once the Engineering Department has reviewed and approved the permit. The owner/contractor is responsible for obtaining all utility locates associated with the work.

Utility agencies shall require the contractor performing the work to obtain the permit. The contractor shall be required to furnish a bond as required herein, thereby assuming full responsibility for the work performed. City ordered work of installing range boxes, surveying monuments, adjusting manhole rings and service boxes, or any similar work shall require a permit on a “No Fee” basis.

2-2.1.3 Permit Specifications

The permit shall assure all land disturbance within the City of Foley rights-of-way meet the requirements within this Ordinance and specifically including the following Articles: Site Design & Development Standards and Environmental Protection. All areas disturbed shall be stabilized immediately upon work completion.

2-2.1.4 Permit Term, Inspections and Termination

The right-of-way permit shall expire one (1) year after permit approval from the Engineering Department. During construction, the Engineering Department may conduct inspections for compliance with the specifications of the permit. All deficiencies will be communicated in writing to the applicant. The applicant shall request termination of the permit when all construction is complete and the area is permanently stabilized.

2-2.1.5 Enforcement

Failure to comply with any section of this Ordinance is hereby deemed a violation and shall be sufficient cause for the City of Foley, through a Code Enforcement Officer or City Engineer to issue an order suspending all work (a "Stop Work Order") on the site until satisfactory measures are taken to comply with this Ordinance.

Any person that has violated or continues to violate this Ordinance shall be liable to criminal prosecution to the fullest extent of the law, and be punished by a fine of not less than one hundred dollars ($100.00), but not more than five hundred dollars ($500.00), or imprisonment not to exceed one-hundred and eighty days (180), or both. The City may recover all attorney's fees, court costs and other expenses associated with enforcement of this Ordinance.

2-2.2 Driveway Permit

2-2.2.1 General

All construction work on driveways across the curb or sidewalk shall be done in conformity with the city standard specifications for sidewalks and driveways. A driveway permit shall be required for any driveway across a curb or sidewalk and adjoining the City of Foley right-of-way. This permit is not required for driveways within platted subdivisions approved after the January 1, 1988. Authority for the driveway permit is the Engineering Department.

The permit shall in no way allow or permit decorative structures placed in the right-of-way or beside driveways. Decorative rocks, landscaping, or structures placed within the right-of-way are subject to damage and destruction during

routine maintenance activities by the city. The city is not responsible for repair or replacement due to damage or destruction, and reserves the right to remove these, at the owner's expense.

2-2.2.2 Application

An application for a driveway permit shall be submitted to the Engineering Department on the required form. The application shall be complete, signed and provide all information and the appropriate permit fee, as required. A complete application shall be submitted at least ten (10) days prior to any planned driveway construction. Construction may begin once the Engineering Department has reviewed and approved the driveway permit.

2-2.2.3 Permit Specifications

All construction work on driveways across the curb or sidewalk shall be done in conformity with the city standard specifications for sidewalks and driveways as follows:

- Minimum widths of sidewalks across driveways shall be five (5) feet wide and minimum six inch thickness.
- Cross slopes of sidewalks across driveways shall not exceed 2.0%. The subgrade shall be thoroughly compacted and have a slope in conformity with the finished surface.
- Concrete shall be a minimum 28 day compressive strength of 3000 psi.
- Transverse expansion joints shall be made at intervals of about thirty (30) feet and shall extend from the surface to the bottom of the sidewalk and shall be one-half inch in width and filled with joint filler. All protruding expansion joints shall be cut flush with the sidewalk.
- All driveway entrances shall be constructed in conformity in all respects to the above specifications and shall have a minimum radius of at least three (3) feet at the curb, and the depth of the paving of the driveway apron and walk joining the entrance apron shall have a minimum depth of at least five (5) inches.
- If the work is done by contract, the contractor shall have a city business license.
- All sidewalks shall be ADA compliant.

2-2.2.4 Permit Term, Inspections and Termination

The driveway permit shall expire 90 days after permit approval from the Engineering Department. During construction, the Engineering Department may conduct inspections for compliance with the specifications of the permit. All deficiencies will be communicated in writing to the applicant. The applicant shall request termination of the driveway permit when all construction is complete and the area is permanently stabilized.

2-2.2.5 Enforcement

Failure to comply with any section of this Ordinance is hereby deemed a violation and shall be sufficient cause for the City of Foley, through a Code Enforcement Officer or Engineering Department to issue an order suspending all work (a "Stop Work Order") on the site until satisfactory measures are taken to comply with this Ordinance.

Any person that has violated or continues to violate this Ordinance shall be liable to criminal prosecution to the fullest extent of the law, and be punished by a fine of not less than one hundred dollars ($100.00), but not more than five hundred dollars ($500.00), or imprisonment not to exceed one-hundred and eighty days (180), or both. The City may recover all attorney's fees, court costs and other expenses associated with enforcement of this Ordinance.

2-2.3 Erosion & Sediment Control Permit

2-2.3.1 General

Prior to any land disturbing activity or exposed soils on a single family residential lot, an Erosion & Sediment Control Permit shall be required. No person, firm, business or corporation shall engage in any land disturbing activity associated with construction, including but not limited to lot grubbing and creating building pads, prior to obtaining the Erosion & Sediment Control Permit from the City of Foley. Authority for the Erosion & Sediment Control Permit is the Environmental Department.

2-2.3.2 Application

A homebuilder/owner desiring to engage in construction of a single family residential development as herein defined shall make application for an Erosion & Sediment Control Permit to the Environmental Department on the application form. The application shall be complete, signed and provide all information and the appropriate permit fee, as required. The Environmental Department will review the application and complete, correct applications are automatically deemed approved and in effect. The Environmental Department shall contact the applicant if the submittal is incomplete or has deficiencies based on the specifications of the Ordinance.

2-2.3.3 Permit Term

The Erosion & Sediment Control Permit shall be effective for a time length of one (1) year from the date of approval. Upon expiration, the applicant must apply for a new permit, meeting all current requirements of the Ordinance. The permit may be denied based on continued noncompliance with applicable requirements of the Ordinance.

2-2.3.4 Permit Specifications

The permit shall assure all development and construction meets the requirements within this Ordinance and specifically including the following Articles: Environmental Protection and Landscaping, Tree Protection, Buffer Zones & Lighting.

2-2.3.5 Permit Inspections and Termination of Permit

The Environmental Department will conduct random compliance inspections during the construction. All deficiencies will be communicated in writing to the applicant. The applicant shall request termination of the permit when all activities are complete and the disturbance is permanently stabilized. Once construction is complete, the owner may transfer the permit from the builder to the owner's responsibility for permanent stabilization by submitting a new application (no additional fee required) to the Environmental Department.

2-2.3.6 Enforcement

A stop work order shall be issued for activity, as required, that occurs without a valid Erosion & Sediment Control Permit.

Upon inspection, if there are violations of this Ordinance, a warning may be issued to the site contact on the permit requiring compliance with this Ordinance within 72 hours of the notice or as soon as safe conditions allow.

Whenever the Environmental Department determines that sedimentation has occurred offsite onto right-of-way, in-stream or into stormwater management facilities, the sediments shall be removed or stabilized based on a determination by the City.

Failure to comply with any section of this Ordinance is hereby deemed a violation and shall be sufficient cause for the City of Foley, through a Code Enforcement Officer, Environmental Manager or Environmental Inspector, to issue an order suspending all work (a "Stop Work Order") on the land disturbing site until satisfactory measures are taken to comply with this Ordinance. If the Stop Work Order is violated or there are continued violations, a municipal offense ticket may be issued.

Any person that has violated or continues to violate this Ordinance shall be liable to criminal prosecution to the fullest extent of the law, and be punished by a fine of not less than one hundred dollars ($100.00), but not more than five hundred dollars ($500.00), or imprisonment not to exceed one-hundred and eighty days (180), or both. The City may recover all attorney's fees, court costs and other expenses associated with enforcement of this Ordinance.

2-2.4 Coastal Construction & Repair Permits

2-2.4.1 General

Coastal Construction and Repair Permits are required for construction and repair of structures (including, but not limited to: piers, docks, marginal docks, boathouses, retaining walls, bulkheads and wharves) on properties adjacent to waterways and drainage ways. A Coastal Construction Permit shall be required for new construction activities, as defined above. Repairs to existing structures that have been damaged greater than fifty percent shall also require a Coastal Construction Permit. The Environmental Department has authority for the Coastal Construction and Repair Permits.

2-2.4.2 Application

A contractor or owner desiring to construct or repair a structure, as defined above, shall make application to the Environmental Department on the approved form. The application shall include a site plan with location of the activity, copies of all required state and federal permits, a No Rise Certification if in a flood zone, and the appropriate fee. Once approved, the applicant shall receive a placard to be displayed visibly at the permitted property.

2-2.4.3 Permit Term

The permits shall be valid for a period of one (1) year from date of issuance. Extensions may be granted upon written request for six (6) additional months.

2-2.4.4 Permit Specifications

The permit shall assure all development and construction meets the requirements within this Ordinance and specifically including the following Article: Environmental Protection.

2-2.4.5 Permit Inspections and Termination of Permit

The Environmental Department will conduct random compliance inspections during the construction. All deficiencies will be communicated in writing to the applicant. These inspections are intended as a supplement to state and federal requirements for environmental impacts. Furthermore these inspections will in no way examine construction requirements in relation to building codes. The applicant shall request termination of the permit when all activities are complete and the disturbance is permanently stabilized.

2-2.4.6 Enforcement

Wherever the Environmental Department determines that construction of coastal structures occurs prior to receiving the required permits from local, state, and federal agencies, a stop work order may be issued until such time as all required permits are obtained.

Whenever the construction of a riparian structure creates sedimentation to be released into wetlands, waterways, or submersed grass beds without approval through submitted permits, a stop work order may be issued until the violation is resolved. At a minimum the construction shall come into compliance within 14 days unless the Environmental Manager approves an extension due to extenuating circumstances.

Any person that has violated or continues to violate this Ordinance shall be liable to criminal prosecution to the fullest extent of the law, and be punished by a fine of not less than one hundred dollars ($100.00), but not more than five hundred dollars ($500.00), or imprisonment not to exceed one-hundred and eighty days (180), or both. The City may recover all attorney's fees, court costs and other expenses associated with enforcement of this Ordinance.

2-3 FEE SCHEDULE

Land Development Permit Fee	$750 + $5 per acre for developments over 5 acres (exclusive of lands placed into conservation easements)
Right-of-Way Permit Fee	$50.00
Annual Minor Right-of-Way Permit Fee	$100.00
Driveway Permit Fee	$25.00
Erosion & Sediment Control Permit Fee	$50.00
Coastal Construction Permit Fee	$75.00

ARTICLE III

SITE DESIGN & DEVELOPMENT STANDARDS

3-1 GENERAL PROVISIONS

3-1.1 Jurisdiction

This article shall apply to the design and development of improvements located within the corporate limits of the city of Foley and within the extra-territorial jurisdiction for subdivisions, unless a separate or subsequent agreement between the city of Foley and the Baldwin County Commission states otherwise.

3-1.2 Responsibility

The City of Foley Engineering Department, Environmental Department and Fire Inspector shall have the authority to review and enforce this Article.

3-1.3 Enforcement

Failure to comply with any section of this Ordinance is hereby deemed a violation and shall be sufficient cause for the City of Foley, through Code Enforcement, Environmental Department, Fire Inspector and/or Engineering Department, to issue an order suspending all work ("Stop Work Order") on the site until satisfactory measures are taken to comply with this Ordinance. Any person that has violated or continues to violate this Ordinance shall be liable to criminal prosecution to the fullest extent of the law, and be punished by a fine of not less than one hundred dollars ($100.00), but not more than five hundred dollars ($500.00), or imprisonment not to exceed one hundred eighty days (180) or both. Each day of a continued violation is a separate offense. The City may recover all attorneys' fees, court costs and other expenses associated with enforcement of this Ordinance.

3-2 CONSERVATION AREAS

3-2.1 Provisions

Conservation areas shall include formal green space and conservation easements that may be used for active or passive recreational uses or for resource protection purposes. Each common area shall be designated as such on the subdivision plat and shall not be assigned a lot number. Notes shall be placed on the plat indicating ownership of green space areas and shall reference subdivision restrictive covenants by instrument number as recorded in the Baldwin County Probate Records. A note shall also be provided on the plat indicating that the City

of Foley shall not maintain any conservation areas. Conservation areas shall have at least one direct access to a public right-of-way for maintenance and/or access.

3-2.2 Conservation Green Space

3-2.2.1 General

Green spaces are commonly owned open spaces that are strategically placed to serve a specialized community function. Active green spaces may be configured as described in Table 3-1. Passive civic spaces protect natural areas worthy of preservation.

- Active Green Spaces:
  - NEIGHBORHOOD GREEN: Open space consisting of lawn and informally arranged trees and shrubs, typically furnished with paths, benches, and open shelters. Greens are spatially defined by abutting streets. Locations should be incorporated as a design element.
  - NEIGHBORHOOD SQUARE: Formal open space available for recreational and civic uses and spatially defined by abutting streets and building frontages located at the intersection of important streets. Locations should be incorporated as a design element. Landscaping in a square consists of lawn, trees, and shrubs planted in formal patterns and it is typically furnished with paths, benches, and open shelters.
  - NEIGHBORHOOD PARK: Natural landscape consisting of open and wooded areas, typically furnished with paths, benches, and open shelters. Neighborhood parks are often irregularly shaped but may be linear in order to parallel creeks, canals, or other corridors.
  - PLAYGROUND: Fenced open space, typically interspersed within residential areas that is designed and equipped for the recreation of children. Playgrounds may be freestanding or located within parks, greens, or school sites.
  - COMMUNITY GARDEN: Designed as a grouping of garden plots that are available to nearby residents for small-scale cultivation. Community Gardens may be included within other green spaces.
  - POCKET PARK: A small green space suitable for socializing, eating and resting. Pocket parks shall be equipped with benches and plantings, with tables and public art optional. They should be placed in close proximity to neighborhood residences as intimate spaces within blocks, but should be visible from a street.
  - PLAZA: Formal open space available for civic and commercial uses and spatially defined by building frontages. Landscaping in a plaza consists primarily of pavement; trees and shrubs are optional.
  - GREENWAY: A linear open space that may follow natural corridors with the intent to link with other open spaces, parks or

greenways. Providing unstructured and limited amounts of structured recreation.

- Passive Civic Spaces:
  - PRESERVE: Protected natural area with special physical characteristics and constraints with limited public access and low impact recreation. May consist of paths and trails, floodplains, wetlands, woodlands, meadows and other natural attribute. Preserve may be lineal such as the natural corridors along rivers or lakes.

TABLE 3-1

Green Space Types	Location/placement	Typical Size
Active Green Space		
Neighborhood Green	Fronting at least 2 streets	0.5 to 10 acres
Neighborhood Square	Fronting at least 1 street	0.5 to 5 acres
Neighborhood Park	Fronting at least 1 street. Parks should connect to surrounding neighborhood.	0.5 to no max.
Playground		0.1 to 1 acre
Community Garden		0.1 to 1 acre
Pocket Park	Fronting at least 1 street	Max. size ½ acre
Plaza	Fronting at least 1 street or at the intersection of two important streets.	0.25 to 2 acres
Greenway	Access points from streets provided (fee simple or easements)	Min. 60'wide
Passive civic space		
Preserve	Access points from streets or other green space provided (fee simple or easements). Preserve should connect to surrounding neighborhood.	No min. /no max.

3-2.2.2 Evaluation Criteria

In evaluating the layout of lots and green space, the following criteria will be considered by the as indicating design appropriate to a site's natural, historic, and cultural features, and meeting the purposes of this ordinance. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and green space areas. Accordingly, the City of Foley shall evaluate proposals to determine whether the proposed development plan:

- Protects and preserves all floodways, and wetlands.
- Creates sufficient buffer areas to minimize conflicts between residential and agricultural uses.
- Visually buffers development from existing public roads, such as by a planting screen consisting of a variety of indigenous native trees, shrubs and other native vegetation.
- Maintains or creates an upland buffer of natural native species vegetation adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.
- Designs around and preserves sites of historic, archaeological or cultural value.
- Provides active recreational areas in suitable locations offering convenient access by residents.
- Considers the pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between properties and activities or special features within the neighborhood green space system. Should connect and link with potential green space on adjoining undeveloped parcels (or with existing green space on adjoining developed parcels, greenways or parks where applicable).
- Long thin strips of conservation land shall be avoided, unless the conservation feature is linear or unless such configuration is necessary to connect with other streams or trails. The open space shall generally abut existing or potential green space land on adjacent parcels, and shall be designed as part of larger contiguous and integrated greenway systems.

3-2.2.3 Minimum Standards

All developments shall have a minimum of 15% green space, exclusive of stormwater management areas, setbacks and jurisdictional wetlands, upon completion. Residential developments of 30 lots or greater shall provide a site plan detailing the required green space with a minimum of 25% of that space being designed for active recreation space.

3-2.3 Conservation Easements

Developments may enter into a conservation easement in lieu of the conservation green space. The easement shall be at a minimum 15% of the overall development

and shall not include the stormwater management facilities and common areas. The conservation easement's purposes will vary depending on the character of the particular property, the goals of the land trust or City, and the needs of the landowners. For example, the easement objective might include any one or more of the following:

- Maintain and improve water quality;
- Perpetuate and foster the growth of healthy forest;
- Maintain and improve wildlife habitat and migration corridors;
- Protect scenic vistas visible from roads and other public areas; or
- Ensure that lands are managed so that they are always available for sustainable agriculture and forestry.

The conservation easement shall forbid subdivision and other real estate development. Proposed conservation easements shall be discussed at the pre design meeting.

3-3 STORMWATER DRAINAGE DESIGN & CONSTRUCTION STANDARDS

3-3.1 Design Engineer Requirements

All engineering plans and specifications submitted for review and/or approval shall be prepared by and under the direct supervision of a registered professional civil engineer, licensed in the State of Alabama. All plans and specifications shall meet the minimum standards and requirements of the City and other applicable local, state and federal authorities.

Plan, profile and special drawing sheets for a project submitted for review shall bear a legible stamp and signature of the professional design engineer.

Upon completion of the project, an inspection of the site and drainage facilities shall be conducted by the design engineer. Correspondence in the form of a letter along with a set of as-built final plan sheets and an electronic version in a format deemed acceptable by the City shall be submitted to the Engineering Department from the design engineer certifying that all drainage and related facilities have been installed in accordance with approved plans and specifications.

3-3.2 Drainage Report and Site Plan

A drainage and grading plan, prepared and certified by a Professional Civil Engineer licensed in the State of Alabama, shall be submitted to the Engineering Department as part of the development. A Natural Resources Inventory shall be completed. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project shall be described as well. This description should include a discussion of soil conditions, forest cover, topography, wetlands and the location and boundaries of areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks (e.g.,

drinking water well setbacks, septic setbacks, etc., as defined in Article IV Environmental Protection). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development. The plan shall be reviewed by the Engineering Department, Environmental Department and City Floodplain Administrator. The plan shall include the following information as a minimum:

- Drainage narrative
- Existing and proposed contours in 1 foot increments;
- Locations of roads, parking areas and building footprints along with their proposed finished floor elevations, if necessary;
- Flood Zone Designation;
- Elevation of the regulatory lowest floor level, including basement, of all proposed structures;
- Elevation to which any nonresidential structures will be flood proofed;
- Elevations to which the integrity of the stormwater facilities shall not be subject to damage, where applicable;
- Drainage basin boundaries, showing direction of flow and including total tributary drainage areas entering the improved area and taking into account any off site runoff being routed through or around the project in its undeveloped condition;
- Size, location, slopes, inverts, types and general configuration of all primary drainage facilities required to route, collect, treat and dispose of stormwater runoff, generated by or passing through the development;
- Location of onsite water bodies and wetlands with details of size and vegetative cover to include normal water elevation, side slopes, and depths of water bodies and for wetlands, the general surface elevation and the wet season water elevation;
- Calculations for sizing of basin to collect first flush and sediment forebay.
- Heritage trees (defined as trees exceeding 30” in diameter breast height (DBH)) identified by name, location and DBH;

- All acres solely for water management purposes shall be noted and the legal method to ensure areas remain devoted;
- Proposed start up and completion date for the project;
- Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, if applicable;
- Design storms used including depth, duration, and distribution;
- Stage storage calculations for the project and stage discharge computations for the outfall structure(s);
- Runoff routing calculations showing discharges, elevations and volumes retained/detained during applicable storm events;
- Draw down calculations for detention;
- Base flood elevation data for all proposed developments greater than 50 lots or 5 acres, whichever is less; if not established refer to the Flood Damage Prevention; Ordinance No. 643-00 Article 4, Section C for requirements
- Calculations required for determination of minimum building floor and road elevations;
- Calculations for flood plain encroachment, if applicable;
- Acreages in the following format:

	Existing (acres/%)	Proposed (acres/%)
Total Area	_____	_____
Impervious	_____	_____
Pervious	_____	_____
Wetlands	_____	_____
Stormwater Management Areas	_____	_____

3-3.3 Design and Construction of Stormwater Management Areas

3-3.3.1 Functional Design of Stormwater Drainage Systems

The drainage system shall at a minimum accommodate peak flows from a 25 year frequency design storm.

All roadway cross drain and side drain pipe shall be the equivalent of the minimum size of fifteen (15) inches in diameter. All piping within the ROW shall be reinforced concrete and all joints shall be wrapped with geotextile filter fabric. Alternate pipe materials may be approved by the City Engineer outside the roadway prism on a case-by-case basis. The minimum cover for drainage pipes shall be according to the pipe manufacturer specifications.

Roadway cross-drains for all local and collector streets shall be designed for a 25-year frequency storm, providing that the roadway is not overtopped by the 100-year frequency storm and that no structures are flooded by the 100-year frequency storm.

Roadway cross-drains for arterial streets or higher street classification shall be designed for a 50-year frequency storm, providing that the roadway is not overtopped by the 100-year frequency storm and that no structures are flooded by the 100-year frequency storm.

Minimum design velocities for storm drainage systems shall be at least 3 feet per second to ensure that the system has some capability for self-cleaning.

The minimum internal diameter of manholes or junction boxes shall be 48 inches.

3-3.3.3 Design of Open Channels

Front slopes within the right-of-way adjacent to the travel lane shall be no steeper than 4H:1V. A maximum of 3H:1V side slopes and flat bottom ditch is required elsewhere, unless the approval is received by the City Engineer for a variation.

Where proposed lots gain access across an existing or a proposed ditch, calculations shall be submitted that shows the required size of future driveway culverts. The Engineering Department may require these pipe(s) and headwalls to be installed with the land development permit.

Headwalls and endwalls shall be installed on all street culverts with the use of flared headwalls or slope paved headwalls (4:1 slope or flatter) used within any public right-of-way.

3-3.3.4 Design of Curb and Gutter and Inlets

Curb inlets shall be designed so that surface water shall not be carried across any intersections nor for a distance of more than five hundred (500) feet in the gutter

or valley. Inlets shall be located at uphill corners of each street intersection to prevent sheet flow of stormwater through the intersection. S-inlets shall be required along roadways. In addition, double-wing inlets shall be placed at all vertical sags in the roadway.

3-3.3.5 Analysis of Upstream and Downstream System

The layout shall include an appropriate conveyance of offsite flows that does not pass through required detention areas. Stormwater discharges from a developed site must be routed to an existing natural or manmade stormwater channel with adequate capacity. Calculations must be submitted that show the capacity of the receiving stormwater channel to handle the required design storms. The routing calculations must extend at least as far as the second downstream street crossing or to a named water body. Routing calculations must extend even further downstream, if the City Engineer has reasonable concern about the capacity of a downstream stormwater channel based on scientific or engineering evidence.

Analysis of the downstream system shall include flow capacity and velocity for existing and proposed flow conditions, using Manning's equation at a minimum.

3-3.3.6 Detention Design and Construction

The NRCS TR-55 method (or equivalent third-party software) shall be utilized for modeling pre- and post-runoff hydrographs. Non jurisdictional Grady pond wetlands shall not be designated as stormwater management facilities.

All development projects shall incorporate stormwater detention and first flush treatment to reduce flooding potential and preserve or improve water quality. The first flush (WQV) shall be treated, infiltrated, or reused onsite to the maximum extent practicable using LID techniques. Grady pond wetlands (jurisdictional or non-jurisdictional) shall not be used as detention areas. Stormwater detention may not be required in the following two situations:

- The project discharges stormwater runoff directly into a tidally influenced water body. This does not include discharges of stormwater runoff that flows through a public drainage system or across a downstream property boundary.
- Stormwater detention for a project site is either unwarranted or impractical. The design engineer shall submit complete hydrologic and hydraulic computations to support this conclusion. This conclusion must be affirmed by the City Engineer. Typically this might occur in the very lowest downstream reaches of a major watershed, if it can be proved that un-detained stormwater should be discharged quickly to avoid peak discharge timing for the entire

watershed. The hydrologic analysis should include more than one representative downstream location for comparing hydrographs.

Even if stormwater detention is waived for the above two situations, the site development must still provide first flush treatment of the WQV in order to protect water quality.

All stormwater detention structures must attenuate the post development peak flow rates from the 2 year, 5 year, 10 year, 25 year, 50 year and 100 year, 24 hour design storms to release a graduated discharge at or below pre development peak flow rates.

Outfalls of detention areas shall be installed at least 25 feet from any property line to allow velocity dissipaters to be installed if necessary for the prevention of offsite erosion and for future maintenance. Exceptions may be approved by the City Engineer for outfalls to approved drainage features such as an encased storm sewer system.

3-3.3.7 Dry Detention Basins

Geotechnical analysis from a licensed professional engineer in Alabama who specializes in Geotechnical Engineering shall be required to ensure proper infiltration. Dry detention basins shall achieve full infiltration within 72 hours of a rain event. The construction plans shall provide techniques achieving the full infiltration within 72 hours, in conjunction with the geotechnical engineer's recommendations.

The maximum contributing drainage area to be served by a single dry detention basin is 75 acres. Routing calculations must be used to demonstrate that the storage volume is adequate.

Vegetated embankments shall be less than 20 feet in height and shall have no side slopes steeper than 3:1. Riprap protected embankments shall be no steeper than 2:1. Geotechnical slope stability analysis is required for embankments greater than 10 feet in height. The maximum depth of the basin should not exceed 10 feet. The detention basin shall be setback such that the outward toe of the berm is a minimum of 25 feet from the property line in fill condition. The minimum setback from the property line shall be 10 feet in cut condition.

A low flow or pilot channel across the facility bottom from the inlet to the outlet is required to convey low flows and prevent standing water. Ponds shall have minimum 0.5% slopes along bottom to the outlet.

Inflow channels are to be stabilized with flared riprap aprons, or the equivalent. A sediment forebay sized to 0.1 inches per impervious acre of contributing drainage shall be provided for dry detention basins that are part of the treatment process during construction activities.

The outlet structure shall be sized based on hydrologic routing calculations and can consist of a weir, orifice, outlet pipe, level spreader, combination outlet, or other acceptable control structure that achieves the required graduated discharge.

Riprap, plunge pools or pads, or other energy dissipaters are to be placed at the end of the outlet to prevent scouring and erosion.

An emergency spillway is to be included in the stormwater pond design to safely pass the extreme flood flow. A minimum of 1 foot of freeboard must be provided, measured from the top of the water surface elevation for the 1% (100 year) event, to the bottom of the emergency spillway.

A maintenance common area must be provided to a pond from a public or private road. Maintenance access shall be at least 15 feet wide, having a maximum slope of no more than 6% and be appropriately permanently stabilized to withstand maintenance equipment and vehicles. The maintenance access must extend to the forebay, safety bench, riser, and outlet and, to the extent feasible, be designed to allow vehicles to turn around.

3-3.3.8 Retention Ponds

Geotechnical analysis from a licensed professional engineer in Alabama who specializes in Geotechnical Engineering shall be required to ensure proper retention and design.

A retention pond shall provide the required storage above the permanent pool and meet the specified graduated allowable release. Stormwater ponds shall also be used to provide detention to control the required events.

Minimum setback requirements for stormwater pond facilities:

- 10 feet from property line to top of pond bank in a cut condition
- 25 feet from property line to top of pond bank in a fill condition
- 100 feet from private wells
- 50 feet from a septic system tank/leach field

Proper geometric design is essential to prevent hydraulic short-circuiting which results in failure of the pond to achieve adequate levels of pollutant removal. The

minimum length-to-width ratio for the permanent pool shape is 1.5:1, and should ideally be greater than 3:1 to avoid short-circuiting. In addition ponds should be wedge-shaped when possible so that flow enters the pond and gradually spreads out, improving the sedimentation process. Baffles, pond shaping or islands can be added within the permanent pool to increase the flow path.

Maximum depth of the permanent pool shall not exceed 8 feet to avoid stratification and anoxic conditions. Minimum depth for the pond bottom shall be 4 feet.

Side slopes to the pond shall not exceed 3:1.

The perimeter of all 5' deep or greater pool areas shall be surrounded by two benches: safety and aquatic. For larger ponds, a safety bench extends approximately 15 feet outward from the normal water edge to the top of the pond side slope. The maximum slope of the safety bench shall be 6%. An aquatic bench extends inward from the normal pool edge (15 feet on average) and has a maximum depth of 18 inches below the normal pool water surface elevation.

Riprap, plunge pools or pads, or other energy dissipaters shall be placed at the outlet of the barrel to prevent scouring and erosion. A minimum of 1 foot of freeboard must be provided, measured from the top of the water surface elevation for the 1% (100 year) event, to the bottom of the emergency spillway.

An emergency spillway is to be included in the stormwater pond design to safely pass the extreme flood flow. The emergency spillway must be located so that downstream structures will not be impacted by spillway discharges.

A maintenance common area must be provided to a pond from a public or private road. Maintenance access shall be at least 15 feet wide, having a maximum slope of no more than 6% and be appropriately permanently stabilized to withstand maintenance equipment and vehicles. The maintenance access must extend to the forebay, safety bench, riser, and outlet and, to the extent feasible, be designed to allow vehicles to turn around.

The principal spillway opening shall not permit access by small children, and end walls above pipe outfalls greater than 48 inches in diameter shall be fenced to prevent access. Warning signs should be posted near the pond to prohibit swimming in the facility.

3-3.4 Regional Stormwater Control Facilities

The use of regional stormwater control facilities may be allowed when space is available, in order to treat multiple parcels of land which are subject to the

provisions of this article. Regional facilities may be allowed as joint ventures between private entities and/or public and private entities. Determination of allowance will be made by the Engineering Department.

3-3.5 Drainage Common Areas

Drainage common areas shall be recorded on the plats for all stormwater management facilities.

Drainage common areas with a minimum width of fifteen (15) feet shall be provided within the stormwater management area connecting the discharge system (pipes, open ditches, etc.) along the most suitable routing for elimination of the stormwater. Drainage common areas can be utilized to meet the LID requirements. Also drainage common areas shall be required for areas traversed by an existing waterway and may be required for areas traversed by an existing watercourse. Drainage common areas are also required on the rear lot lines.

3-3.6 Low Impact Development (LID) Techniques and Green Infrastructure (GI) in Development and Redevelopment

The use of LID techniques is required and is to be determined from an entire site development perspective by the engineer of record for the project. The design and integration of LID techniques shall promote the health, safety and general welfare of the community and shall be designed to work in a complementary fashion with the drainage plan for the proposed development.

Practices shall be designed in accordance with the Alabama LID Handbook (www.aces.edu/lid) and certified by a credentialed professional in his/her design field. LID techniques selected shall consider local rainfall data, soils, slopes, wetlands, and other natural features.

The design engineer shall work closely with the Foley Engineering and Environmental Departments for consideration of site constraints and LID technique selection to achieve a “best-fit” solution. The City Engineer has the authority to exempt these requirements for developments with extenuating circumstances based on site constraints. Economic constraints shall not be considered. Water quality and quantity shall still be addressed to the maximum extent practicable.

Design, construct and maintain stormwater management practices that manage rainfall on-site, and prevent the offsite discharge of the first 1.25 inches of stormwater. This objective must be achieved by practices that infiltrate, evapotranspirate and/or harvest and reuse rainwater.

Redevelopment sites that modify over 50% of the valuation of the property or the structure (whichever is least restrictive) and modify any exterior

impervious surface shall increase the capture and retaining of stormwater runoff (with the goal of the first 1.25 inches) from impervious areas through LID and GI practices including infiltration, evapotranspiration or reuse on site.

The development plans shall include inspection and maintenance schedules and details for each technique selected. Prior to the City's final inspection, the design engineer shall provide certification that each technique was constructed as designed.

3-4 TRAFFIC ANALYSIS REQUIREMENTS

3-4.1 General Purpose and Policy

The purpose of the traffic analysis is to require that development within the City of Foley is supported by an adequate roadway network to accommodate the continuing growth and development of the City. Acquisition of new rights-of-way for off-site, abutting and internal streets to support new development is necessary and desirable. The City requires that:

- Development impacts from new developments are mitigated through contributions of street rights-of-way and/or improvements to existing and new roadways; and
- Adequate infrastructure for new development is adequately evaluated and addressed.

There must be a rough proportionality between traffic impacts created by a new development and the requirements placed on the property owner or applicant for a new development to dedicate and improve off-site and abutting City streets. The City will evaluate the project and determine what dedications, if any, are required to address both the nature and the extent of the impact that results from the proposed development. The City desires to assure both that development impacts are mitigated through contributions of transportation system improvements. It is the City's intent to institute a procedure to assure that mandatory street construction requirements are proportional to the traffic demands created by the new development.

3-4.2 Applicability

3-4.2.1 Site Applicability

The requirement shall apply to existing and future transportation networks associated with land development activities within the City. Any application for site development in accordance with this Ordinance must comply with these standards. However, applicability shall not include single family residential or multifamily developments which consist of 35 or fewer dwellings.

3-4.2.2 Traffic Impact Study

The City Engineer may require the developer of any residential, multifamily, commercial or industrial development within the City limits and its extra territorial jurisdiction to conduct a Traffic Impact Study (TIS) if there is reasonable expectation that the development may cause one or more of the following conditions:

- Produce trip generations during the peak hour in excess of 75 vehicles per hour, or
- A change in land use which may increase the trip generation during the peak hour in excess 50 vehicles per hour, or
- A rezoning application where the proposed zoning may result in trip generation during the peak hour in excess of 75 vehicles per hour, or
- An additional access by an existing facility to a City of Foley roadway that the City does not consider to be necessary for safe and efficient movement of traffic, or
- Any new development that the City of Foley determines may impact the transportation network or that the City feels that the development shall be coordinated with adjacent developments.

3-4.2.3 Traffic Impact Study Requirements

The referenced threshold requirements for a Traffic Impact Study are included in the Traffic Impact Study Requirements (Attachment # 2) and shall be the guideline for developing the TIS.

3-4.2.3 Project Phases

Where project development may take place in multiple phases, the developer shall submit a development plan that includes the proposed development plans for all subsequent phases. That is, an overall development plan shall be submitted along with the initial phase development plan. The intention is to enable adequate evaluations of the traffic impact anticipated when all phases of the development are complete.

3-4.3 Participation by the City of Foley

Participation by the City of Foley in infrastructure improvements resulting from the Traffic Impact Study shall not be construed to mean assistance of a financial nature relating to the easement acquisition, construction or engineering costs.

During the course of providing for improvements, the City shall cooperate with the developer in the use of its governmental powers to assist in the timely and cost effective implementation of improvements. Specifically, the City may agree to:

- Assist in the acquisition of necessary rights-of-way and easements;
- Assist in the relocation of utilities;
- Assist in obtaining approvals from Baldwin County;
- Assist in obtaining approvals from ALDOT;
- Assist in securing financial participation for major thoroughfare improvements from Baldwin County, ALDOT or other area wide transportation planning and management entities as may be established in the future.

3-4.4 City Evaluation and Actions

3-4.4.1 Evaluation

The City shall evaluate the adequacy of the Traffic Impact Study prepared by the applicant. Based upon such evaluation, the City shall determine:

- Whether the applicant may be approved in the absence of dedication of rights-of-way or construction of improvements to each affected thoroughfare; and
- The extent of the applicant's obligations to make such dedications or improvements.

The application for which a Traffic Impact Study is being conducted shall not be approved until the City is satisfied with the financial arrangements related to the required transportation improvements.

3-4.4.2 Conditions

The City shall condition the approval of the development application on one or more of the following acts by the applicant:

- Delay or phasing of development until thoroughfares with adequate capacity or intersections improvements are constructed;
- Reduction in the density or intensity of the proposed development sufficient to ensure that the roadwork has adequate capacity to accommodate the additional traffic to be generated by the development;
- Dedication or construction of thoroughfares or traffic control improvements needed to mitigate the traffic impacts generated by the proposed development.
- Construction of turn lanes are required for streets of collector or arterial classification.

3-5 ROAD & RIGHT-OF-WAY DESIGN STANDARDS

3-5.1 General Requirements

The arrangement, character, extent, location and grade of all streets shall conform to an acceptable plan and shall be integrated with all existing and planned streets. All lots must front on an improved public or private right-of-way. Developments shall propose streets that discourage through traffic. The number of streets converging upon any one point which would tend to promote congestion shall be held to a minimum.

If deemed appropriate by the Planning Commission, streets may be extended by dedication to the boundary of the adjoining property. A temporary turn around, as defined in design standards for street cul-de-sac, and in compliance with the fire code shall be provided.

The Planning Commission shall determine the classification of City streets.

3-5.2 Minimum Design Requirements for Roadway Construction

All new roadways, public or private, shall be constructed by the subdivider/developer at his cost. It shall be the responsibility of the licensed professional engineer to certify that the road buildup accommodates the site specific conditions. All new public and private roadways shall be asphalt paved, at a minimum, to the guidelines of the City of Foley, Alabama, which include, but are not limited to, the following requirements:

- Alabama Department of Transportation Standard Specifications for Highway Construction, current edition;
- 1 ½ ” minimum asphalt paving binder layer thickness combined with a 1.25” minimum wearing layer; asphalt as described in the current edition of the Alabama Department of Transportation Standard Specifications for Highway Construction;
- Bituminous surface treatment required for all roads with sand/clay base;
- 8” minimum compacted sandy clay base thickness or 6” compacted crushed stone aggregate base;
- Removal and replacement of unsuitable sub-grade material, as per Geotechnical recommendation;
- 20’ minimum asphalt paving width for local streets or 24’ minimum asphalt paving width for collector and arterial streets;
- Solid sod surrounding paving, minimum 4’ width, with permanent vegetation to the property line;
- No right of way shall be accepted for maintenance by the City until permanent vegetation is established;
- One foot of clearance between the bottom of the base to the seasonal high groundwater elevation as provided in the geotechnical report;
- Streets to be constructed within an area subject to flood shall be constructed at a minimum of 2 feet above base flood elevation. Crushed

aggregate shall be used for base material in these areas. Drainage openings shall be so designed as not to restrict the flow of flood waters or increase flood heights;

- Minimum roadway cross slope shall be 2.0% not to exceed 2.5%;
- The full width of the roadway cross-section, from the extents to which the proposed slopes tie to existing ground, shall be fully graded and permanently stabilized prior to final plat approval;
- Tack coat is required between all asphalt surfaces;
- All crosswalks and stop bars shall be thermoplastic material.

3-5.3 Curbs and Gutters

Curbs and/or gutters may be required by the City Engineer. The curbs and gutters shall be designed with a twenty-four (24") inch curb and gutter or minimum of thirty (30") inch valley gutter. Minimum curb radius at all intersections shall be at least twenty-five (25) feet for residential applications and fifty (50) feet for commercial applications. All radii shall be designed to allow ingress and egress of fire trucks and school buses. Alternative engineered designs to curbs and/or gutters may be approved by the City Engineer subject to analysis of drainage control on the roadways.

3-5.4 Intersection, Tangents and Horizontal Curves

Intersections shall be approximately at right angles, and shall not be less than 75° at any intersection. Intersections shall not include more than four (4) basic street legs or approaches which do not include merging lanes, deceleration lanes, "Y" intersections, and traffic circles.

Minimum radii of horizontal curves shall not be less than 400 feet on arterial streets, 200 feet on collector streets, and 100 feet on local streets. There shall be a tangent of 100 feet provided between all reverse curves on arterial and collector streets and shall be 50 feet on local streets. Alternative designs may be approved by the City Engineer.

Intersections shall be designed with a relatively flat grade, but must always be designed to drain stormwater away from the driving surface to prevent ponding.

Deceleration and/or acceleration lanes shall be required where necessary to maintain a safe flow of traffic on existing or proposed streets. This requirement shall be determined by the City Engineer after a traffic study has been performed by the professional engineer.

3-5.5 Cul-de-Sac and Dead End Roadways

Permanent dead end roadways shall not exceed 500 feet in length without specific approval from the City Engineer. All permanent dead end roadways shall be provided with a cul-de-sac having the following specifications:

- Type: Circular, Circular-Offset; Circular-All Paved or other turn around design approved by the City Engineer
- Radius: Shall meet current fire code standards

Temporary dead-end streets greater than 150 feet in length are required to have a temporary turnaround constructed of an all-weather surface capable of supporting a 75,000 lb. vehicle load. Said temporary turnaround shall be graded properly to drain, and be maintained by the developer until the roadway is continued. If adjacent property is not owned by the developer or no other preliminary plat is approved at the time of final inspections, a permanent cul-de-sac shall be required.

3-5.6 Right-of-Way

Minimum widths of rights-of-way are as follows:

Street Classification	Minimum Right-of-Way Width
Alley	20 feet
Local	50 feet
Collector	60 feet
Arterial or Commercial/Industrial	80 feet
Designated Highways	100 feet
Cul-de-Sac	50 feet (Radius)

3-5.7 Common Driveways

Maximum number of lots that may be served by a common driveway shall be 2. Maximum length of a common driveway shall be 150 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 width of 30 feet to contain the common driveway and provide adequate ingress/egress. All subdivisions using common driveways shall provide for a Homeowners Association to be responsible for the maintenance of the common driveway.

3-5.8 Roadway Name and Signage

All new roadways shall have a name which is not used elsewhere within the City of Foley, nor which is so similar to another name already in use to cause confusion.

Roadway naming shall be consistent with the directional line of the streets as follows:

East-West----------Avenues
North-South----------Streets
Cul-de-Sac----------Lane
Circular Roads----------Circles
Northeast-Southwest or
Northwest-Southeast----------Drives

The cost to provide all traffic signs and/or signals is the responsibility of the owner/developer. All traffic signs and/or signals shall be in accordance with the most recent version of the Manual on Uniform Traffic Control Devices. All traffic signals shall be black with LED bulbs. All signals shall be designed with radar detection. Street signs shall be installed prior to final plat approval. All intersections require roadway name signs in accordance with the City of Foley Public Works Department, standard font and color.

3-5.9 Sidewalks

Sidewalks shall be included in all subdivisions. Sidewalks shall be constructed of concrete that has a minimum 28 day compressive strength of 3000 psi, and shall be at a minimum width of five (5) feet. Sidewalks shall be located on both sides of the roadway within the right-of-way. All sidewalks shall be ADA compliant. Sidewalks/bike path/multiuse path shall be required on the exterior of developments along adjacent streets for connectivity to infrastructure (existing and future) in the area.

3-5.10 Minimum Lighting Requirements

The subdivider/developer shall install or have installed street lighting meeting Riviera Utilities or Baldwin EMC standards. The cost of which shall be solely paid by the subdivider/developer. All utilities shall be underground. All intersections lit with maximum pole spacing 200’ staggered array.

The subdivider of property on an unlighted dedicated right-of-way (other than a State Highway) is required to light the rights-of-way as if included in the subdivision.

3-6 FIRE CODE REQUIREMENTS FOR DEVELOPMENTS

3-6.1 General Purpose

The purpose of the fire code requirements is to require that development within the City of Foley may be adequately accessed by emergency services, including but not limited to fire service

3-6.2 Incorporation of International Fire Code, 2018 Edition

The City of Foley has adopted the International Fire Code, 2018 Edition as well as Appendices A,B,C,D,F,H, and I with amendments to multiple sections.

Developments shall be designed to meet the requirements of the International Fire Code, 2018 Edition Part III – Building and Equipment Design Features, Chapter 5 Fire Service Features; Appendix B Fire-Flow Requirements for Buildings; Appendix C Fire Hydrant Locations and Distribution; Appendix D Fire Apparatus Access Roads. However, the following sections are amended to read as follows and/or added to said code:

- Section 503.2.2 – Authority. The fire code official shall have the authority to require an increase in the minimum access widths and vertical clearances where they are inadequate for fire or rescue operations.
- Section 503.3 – Marking. Where required by the fire code official, approved signs or other approved notices or markings shall be provided for fire apparatus roads to identify such roads or prohibit obstruction thereof. The means by which fire lanes are designated shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility. Fire lane striping shall consist of six-inch (6") wide red background stripe with a four-inch (4") high white lettering stating "NO PARKING FIRE LANE" at intervals not to exceed 25 feet. Fire lane marking shall be on the vertical surface of the curb unless otherwise approved by the fire code official.

3-6.3 Remote Fire Access for Multi Story Structures

The location of fire department connections shall be remote of the building, outside of the building's collapse zone, whenever possible. The collapse zone is a distance away from the building equal to the height of the exterior wall on the side of the fire department connection. The location shall be approved by the fire code official.

3-7 UTILITIES REQUIREMENTS & EASEMENTS

3-7.1 General Provisions

All utilities shall be designed for and installed during the appropriate construction phases. All underground utilities having conduit within the right-of-way shall be installed prior to asphalt placement. Borings of newly constructed roadways shall not be considered except for the rare case of unforeseen conditions, as approved by the Engineering Department. The developer shall secure and provide the Engineering Department with an acceptance or approval statement from each and every utility when design installation is satisfactory and complete. The final plat shall not be approved without these written statements. Final City acceptance will not be given until all statements are submitted.

The developer shall be responsible for coordinating with the sewer, water, power, fiber phone, gas, and other utilities to provide service for the development, and shall pay any and all fees, service charges, or other costs levied by the utilities and associated with the installation of the same. Utilities of electrical, wastewater and water shall be provided by Riviera Utilities unless refused by Riviera Utilities.

Power, phone, gas and other utilities providing service to commercial and industrial developments shall locate these services underground if viable or above ground at the discretion of the provider, but not in conflict with other areas of this manual. Utilities providing service within subdivisions of single family residences and developments of multi family dwelling units shall locate these services entirely underground; except existing or new power transmission circuits having a three-phase Voltage of twenty (20) kilovolts or more, and existing or new power distribution feeder circuits having a capacity of more than five hundred (500) Amperes shall be excluded from these regulations. The installation shall be in accordance with the respective utilities specifications and procedures and shall meet all requirements of the building codes and development ordinances otherwise applicable within the City of Foley.

3-7.2 Sanitary Sewer

3-7.2.1 Sanitary Sewer Design Standard Requirements

The Riviera Utilities Design Standards, current edition, shall apply to all sanitary sewer design within the City of Foley Corporate Limits. Subdivisions within the Planning Jurisdiction of the City of Foley shall also comply with the Riviera Utilities Design Standards, current edition. Sewer lateral lines shall be laid to the setback line of the lot. Riviera Utilities' sanitary sewer service shall be requested prior to the pre-design meeting. Riviera Utilities shall have the "right of first refusal" on all sanitary sewer services.

A gravity fed sewer system shall be required unless a low pressure pump system is specifically approved by the City Engineer and meeting the Riviera Utilities Standards. The project design engineer shall provide a written certification to justify the need for a low pressure system for review of technical infeasibility of traditional gravity sewer. If approved as an acceptable system in lieu of a gravity system, low pressure systems shall be constructed to provide flow conditions that will minimize the development of sewage BOD5 (biochemical oxygen demand) concentrations greater than three hundred fifty (350) mg/L. Coordination with the utility shall be the responsibility of the Developer.

3-7.2.2 Septic Tanks

The Alabama Department of Public Health, Baldwin County has sole authority on the approval, installation and inspection of septic tanks. Septic tanks are

prohibited unless Riviera is unavailable and the developer has obtained a permit from the Health Department. Said permit shall be provided to the City.

3-7.3 Water

Developments, individual lots or parcels shall be properly connected to a public or private community water system where such system borders the development, lot line or is available and the appropriate utility has the capacity to provide service. The lines for both domestic use and fire protection shall be approved by a public or private community water supply and constructed in a manner as to adequately serve all of the lots located within the subdivision. If a well is required for each lot, the location, construction and use of such well shall also meet the Alabama Department of Public Health, Baldwin County requirements.

All developments shall have adequate potable water and adequate water for fire protection. In all cases, the developer, property owner or agent shall submit written documentation verifying that the public or private water provider is willing and able to provide service to the development. When all water lines and connections are installed, the developer/owner shall call for final inspection by the utility provider. The approval by the utility provider shall be submitted to the Engineering Department prior to final plat approval.

3-7.4 Utility Easements

All utility easements shall be a minimum width of 15 feet. All utilities located between lots shall be in common areas of minimum 15’ width. The utility easement shall contain all necessary utilities, to include sewer, water, gas, power, phone and cable.

The first 15 feet of a lot adjacent to each street shall be reserved for utility easement purposes where needed. The owner shall dedicate any and all necessary easements for water and sanitary sewer lines which are installed on private property. Such easements shall be shown on the application for Certificate of Occupancy, shall be in the actual location of the installed line, and shall be dedicated for perpetual use by the installed utility company. As-builts shall be required for all utility installations.

3-8 INSPECTION & TESTING REQUIREMENTS

3-8.1 General Inspection Requirements

All public and private streets are subject to the requirements of Section 3-5.

3-8.1.1 Pre-Construction Conference

It shall be required for the developer/contractor/design engineer to schedule and coordinate a Pre-Construction Conference with all involved parties, a minimum of one week prior to planned construction commencement.

3-8.1.2 Notification of Work

The Engineering Department shall be notified, in writing by the engineer of record, at each phase of subdivision development as specified below.

- It shall be the duty and responsibility of the engineer of record to give written notice to the City Engineer or his /her designee, two working days prior to starting any phase of construction.
- The engineer of record shall also notify the Engineering Department in writing the day work is resumed after a delay of more than five working days.
- This includes all phases of construction; clearing & grading, drainage and utility infrastructure, base, surfacing and any work that pertains to the street or road development.
- After all BMPs have been installed and/or constructed, but before any other construction takes place, the contractor shall notify the Environmental Department to inspect the BMPs as indicated on the Construction Best Management Practices Plan.

Failure to provide proper notification as specified shall be grounds for an issuance of a stop-work order and non-acceptance of roadways by the City of Foley.

3-8.1.3 Embankment Services

Roadway fill or embankment of earth material shall be placed in uniform layers, full width, and not exceeding six inch thickness (loose measurement). Each layer shall be compacted so that a uniform specified density is obtained. Compaction tests shall be run at the frequency and location as directed by the City Engineer or his/her designee. Additional layers of fill shall not be added until directed by the City Engineer. For all density requirements refer to Section 210 and Section 306 of the "Alabama Department of Transportation Standard Specifications for Highway Construction."

3-8.1.4 Subgrade

The subgrade shall be compacted and properly shaped prior to the placing of base materials. The top six (6) inches of the roadbed shall be modified, with the work being performed under Section 230 Roadbed Processing, of the "Alabama Department of Transportation Standard Specifications for

Highway Construction". It shall be full width of regular section and extend eighteen (18) inches outside of curb sections or 30 inches from the edge of asphalt, whichever is greater. The embankment or subgrade shall be inspected by proof rolling, under the witness of the Engineering Department, with a fully loaded (minimum 20 CY) tandem axle dump truck to check for soft or yielding areas. Any unsuitable materials shall be removed and replaced with a suitable material compacted to a density as required. The Geotechnical representative shall be onsite during the proof rolling at the owner's expense.

3-8.1.5 Base

Base course shall meet the requirements according to the "Alabama Department of Transportation Standard Specifications for Highway Construction." Base course shall have a minimum thickness as required by Section 7-5.2 of these regulations and shall extend eighteen (18) inches outside of curb sections or twenty-four (24) inches from the edge of asphalt, whichever is greater. The density requirements for compaction shall be in accordance with Section 306 of the "Alabama Department of Transportation Standard Specifications for Highway Construction." Design shall be based on a proven and accepted engineering test or method for the site conditions that exist, based on the approved geotechnical report.

3-8.1.6 Roadway Pavement

All roads and/or streets shall be paved and comply with the following:

- All roads shall be improved according to the standard outlined in Minimum Design Requirements for Roadway Construction (3-5.2).
- The finished wearing surface shall be uniform and free of defects. The Engineering Department may require additional density tests in areas that appear questionable. Costs associated with these tests shall be paid for by the owner/developer.

3-8.1.7 Final Inspection

It shall be the duty and responsibility of the engineer of record to give written notice to the Engineering Department once the subdivision infrastructure is installed and areas have been permanently stabilized with healthy vegetation for final acceptance. Prior to a joint final inspection, the design engineer shall submit a completed punch list to the City Engineer for review. The punch list requires all infrastructures are complete and signs, lighting, and utility connections have been installed according to the approved construction plans. Furthermore all temporary BMPs such as silt fences shall be removed except those BMPs placed for

lot development. All vegetative cover shall be installed and maintained according to the most current edition of the Alabama Handbook for Erosion and Sediment Control. All disturbed locations shall be permanently stabilized with a healthy stand of vegetation. The Engineering/Environmental Department may require additional permanent vegetation application. The cost shall be covered by the developer. As builts shall be submitted and approved by the Engineering Department prior to final plat approval. As-built shall include an evaluation and certification of the stormwater facilities to include pond volume, embankment size and elevations, invert size and elevations, and spillway elevations, field surveyed by a Professional Land Surveyor. It shall be the engineer of record's responsibility to verify the design and as-builts are consistent prior to requesting recording of the final plat or Certificate of Occupancy.

3-8.2 Testing

All testing shall be conducted by an independent testing laboratory with a licensed professional Geotechnical Engineer licensed in Alabama approved in writing by the Engineering Department. The testing laboratory shall have the proper equipment and personnel necessary to perform the said testing of the required improvements and shall be certified by the Alabama Department of Transportation. Proof of certification must be submitted to the Engineering Department, prior to said approval. A schedule of proposed testing must be submitted to the Engineering Department for approval at the time of the Pre-Construction Conference. The tests shall, at a minimum, consist of:

- Soil Gradation
- Moisture Content
- Soil Compaction
- In-place asphalt density analysis of road building materials.
- Pipe bedding compaction for storm and sanitary sewers.
- Trench backfill compaction for storm and sanitary sewers.

The developer shall notify the Engineering Department twenty-four (24) hours prior to any required tests. Copies of all test reports shall be provided to the Engineering Department before additional construction occurs. In the event problems exist that require remedial actions or design, the design engineer shall be required to submit appropriate engineering plans to the Engineering Department for review before construction will be allowed to proceed. The engineer of record shall certify in writing that all deficiencies have been resolved.

ARTICLE IV

ENVIRONMENTAL PROTECTION

4-1 GENERAL PROVISIONS

4-1.1 Jurisdiction

This article shall apply to the design and development of improvements located within the corporate limits of the City of Foley and within the extra-territorial jurisdiction for subdivisions, unless a separate or subsequent agreement between the city of Foley and the Baldwin County Commission states otherwise.

4-1.2 Responsibility

The City of Foley Environmental Department and Engineering Department shall have the authority to review and enforce this Article.

4-1.3 Enforcement

Failure to comply with any section of this Ordinance is hereby deemed a violation and shall be sufficient cause for the City of Foley, through Code Enforcement, Environmental Department and/or Engineering Department, to issue an order suspending all work ("Stop Work Order") on the site until satisfactory measures are taken to comply with this Ordinance. Any person that has violated or continues to violate this Ordinance shall be liable to criminal prosecution to the fullest extent of the law, and be punished by a fine of not less than one hundred dollars ($100.00), but not more than five hundred dollars ($500.00), or imprisonment not to exceed one hundred eighty days (180) or both. The City may recover all attorneys' fees, court costs and other expenses associated with enforcement of this Ordinance.

4-2 PROTECTED RESOURCES

4-2.1 Wetlands

A parcel of land to be subdivided that contains delineated jurisdictional wetlands shall be subject to State and Federal regulations concerning fill material disposal into said wetlands. Lots shall only be platted where sufficient upland areas exist to provide a building site for the principal structure and necessary ancillary facilities. Lots that are 1 acre and less shall not be created that contain greater than 10% wetlands. Lots that are greater than 1 acre shall not be created that contain greater than 25% wetlands. Fill may be used only where necessary to

provide access to lots where approval for such fill has been received from the U.S. Army Corps of Engineers and the Alabama Department of Environmental Management. All permits and certifications for wetland fill shall be submitted to the Environmental Department.

All jurisdictional wetlands as acknowledged by the Army Corps of Engineers shall remain in an undisturbed natural state and shall have a minimum natural undisturbed buffer width of thirty (30) feet.

4-2.2 Waterways and Watercourses

Any existing watercourses or waterways shall be maintained at all property boundaries. If land being subdivided contains a waterway, or portion thereof, the responsibility for safe maintenance of the waterway shall be such that it will not become a City responsibility.

No activity shall be permitted in close proximity to a natural watercourse or waterway unless a buffer zone is provided along the boundary to prevent construction activities from affecting the natural characteristics of the waterway or watercourse. All waterways shall remain in an undisturbed natural state and shall have a minimum buffer width of fifty (50) feet from the top of each bank.

Activity in connection with construction in, on, over, or under a natural watercourse or waterway shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the watercourse or waterway.

The relocation of a waterway, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the water flow characteristics, except when justification for significant alteration to flow characteristic is provided.

Relocation and/or activity within a waterway shall require submittal to the Environmental Department of appropriate permits as required by the U.S. Army Corps of Engineers, ADEM, Alabama Department of Conservation and Natural Resources and any other governmental agencies.

4-2.3 Floodplains and Floodways

Areas subject to periodic flooding caused by poor drainage facilities will not be accepted unless the developer/owner makes necessary provisions to eliminate such flooding in conformity with the National Flood Insurance Program. Construction within flood hazard areas shall refer to the Flood Damage Prevention Ordinance for Non Coastal Communities, most current adoption, for specific details.

Fill may not be used to raise land in areas subject to flood and/or experience excessive erosion, unless the fill proposed does not restrict the natural flow of water, advance erosion, unduly increase flood heights or unnaturally redirect stormwater to adjacent properties.

4-2.4 Well Head Protection

The Well Head Protection Area is established to protect the public health, safety and welfare through the protection of public water supplies from the dangers of water pollution and contamination. The area is defined by public water utilities (including Riviera Utilities and Orange Beach Water Authority) as areas that have potential to cause water quality degradation due to pollutant loadings within aquifer recharge areas.

It is the responsibility of the developer/owner to show proof of compliance with all requirements prior to land use changes within a Well Head Protection Area. Land uses that have the potential to contribute to groundwater degradation shall meet with the Environmental Department and public water utility affected to assure that the site development plan minimizes risk of contamination. The following table shall be followed at a minimum for setbacks from a public well.

Proposed Structure	**Setback from Public Well**
Storm sewer drain	50’
Sanitary sewer manhole, main, connection	100’
Sanitary sewer lift station or related	200’
Septic system, tank or drain field receiving <8000 gallons/day	500’
Cemetery or Stormwater Management Facility (Retention or Detention)	500’
Land application of waste or wastewater; Septic tanks receiving >8000 gallons/day	1000’
Any solid waste storage or processing facility; Fuel storage tanks; Pesticide or fertilizer handling/storage facilities	1200’

4-3 CONSTRUCTION POLLUTION CONTROL

4-3.1 Construction Best Management Practices Plan

For the purposes of this Ordinance, the following are the minimum requirements for the Construction Best Management Practices Plan (CBMPP):

- The CBMPP shall be designed by a Qualified Credentialed Professional (QCP).

- At a minimum the site's CBMPP shall meet all conditions and qualifications of the ADEM NPDES Construction General Permit, and BMP design should be based on the guidance in the Alabama Handbook (most current edition).

- Best Management Practices (BMPs) shall be required for all land disturbing activities. It shall be the sole responsibility of the owner/contractor to promptly implement effective BMPs in accordance with the CBMPP prior to commencing the any land disturbance. The owner/contractor shall be solely responsible for ensuring that all BMPs are implemented and maintained for the entire duration of the Land Disturbing Activity. The owner/contractor shall also be solely responsible for ensuring that the BMPs are in accordance with established industry standards, good engineering practices, and all standards as set out in the Alabama Handbook (most current edition).

- A map shall be included that identifies topography, watercourses and wetlands (jurisdictional and non-jurisdictional).

- Jurisdictional wetlands and wetland/stream buffers shall be flagged prior to any land disturbing activity.

- Sediment basins shall be designed to treat for sediment. Detention basins may be modified to function as a sediment basin only if all design criteria for a sediment basin are met. These are designed to take drainage from the site and shall be installed and stabilized prior to any other construction.

- The owner/contractor shall ensure proper onsite containment and disposal of all construction building materials, supplies, trash, debris, fertilizers, pesticides, herbicides, detergents, sanitary waste and any other solid waste.

- The owner/contractor shall ensure proper onsite containment and disposal of any pollutants resulting from equipment and vehicle washing, concrete, paint and other washout water.

- The owner/contractor shall minimize the discharge of any pollutants resulting from a spill or leak from, including but not limited to vehicles, mechanical equipment, and chemical or fuel storage.

- The owner/contractor shall stabilize all construction entrances and exits to minimize off-site tracking of sediment from vehicles. Street sweepers shall be employed when sediment escapes onto public rights-of-way.

- The owner/contractor shall minimize the generation of dust during construction.

- The owner/contractor shall minimize the disturbance of steep slopes, unless infeasible.

- The owner/contractor shall minimize the amount of soil exposure and compaction during construction activity. At no time shall a project expose more than twenty-five (25) acres of bare ground at one time. Sequencing and phasing shall be used to minimize exposed soils.

- The owner/contractor shall temporarily stabilize disturbed areas immediately whenever work has temporarily ceased on any portion of the site and will not resume for a period exceeding thirteen (13) calendar days.

- The owner/contractor shall provide the necessary measures to ensure that drainage structures important to overall Storm Water Management and control are not adversely affected by clearing, grading, or any other land disturbing activities and shall permanently stabilize any right-of-ways disturbed during construction.

- All onsite areas disturbed during construction shall be permanently stabilized prior to final inspection. Lots to be developed within 60 days may be allowed to be temporarily stabilized, based on a written request and acceptance.

- The owner/contractor shall, with property owner permission, remove any offsite sediments from adjacent properties and stabilize any areas disturbed during the removal. If the removal involves streams or wetlands, proper Federal and State permits shall be required prior to removal. Streets that have sedimentation from runoff or tracking of vehicles shall be swept immediately to remove accumulation of sediment due to safety concerns.

- The owner/contractor shall ensure all construction waste and debris, silt fences, wattles, inlet protection, and other temporary BMPs shall be removed prior to final inspection.

- The owner/contractor shall ensure proper implementation, daily observation, regular inspection and continual maintenance of effective BMPs to prevent offsite impacts and impacts to downstream water quality.

- In the event the BMP (s) are found to be in need of maintenance or improvements, the owner/contractor shall commence and implement all necessary maintenance and corrective measures to the BMP (s) within two (2) working days of notice unless prevented by unsafe weather conditions.

- Activity that has continued compliance issues and/or offsite impacts may be issued a Stop Work Order; ceasing all activity except BMP installation and maintenance. At that time the owner/contractor may be required to submit an updated CBMP Plan prepared by a QCP.

4-3.2 CBMPP Submittal, Review and Approval

The CBMPP shall be submitted with the Land Development Permit. No land disturbance shall take place prior to review and approval of the CBMPP. Modifications may be required to meet the minimal requirements prior to approval. Approval will be communicated to the owner and QCP.

4-3.3 Implementation of CBMPP

The approved CBMPP shall be implemented once construction is initiated. Random routine inspections will be conducted to ensure compliance with the CBMPP. If inspections reveal the BMPs to be ineffective, an update of the CBMPP will be required to provide adequate, effective BMPs.

4-3.4 Other Pollution Prevention Provisions

- No open burning is allowed during the months of May through October per ADEM regulations. Any other burning must meet the requirements as set forth by the Foley Fire Department.
- Sites that store onsite fuel, chemicals or other hazardous pollutants shall prepare, implement and maintain a Spill Prevention, Control and Countermeasures (SPCC) Plan. This plan shall be submitted with the CBMPP for review.
- A concrete washout area shall be designed on all sites during installation of drainage structures and in the residential construction phase.
- Placement of BMPs in/on City rights-of-way is prohibited unless given written permission by the City Engineer.
- Sanitary waste shall be routinely managed on site to prevent spillage and contamination of stormwater. Avoid placement of portables on stormwater inlets.
- Dumpsters shall be installed on all construction sites for placement of garbage and waste. Dumpsters shall be emptied regularly to prevent trash from littering sites and neighboring properties.

4-4 POST DEVELOPMENT STORMWATER MANAGEMENT FOR NEW DEVELOPMENT & REDEVELOPMENT

4-4.1 Operation and Maintenance of Stormwater Facilities

All stormwater management facilities shall be restored to original approved design upon construction completion, including removal of sediment deposits occurring during construction. All stormwater management facilities shall be inspected and certified by the design engineer prior to final plat approval. Any liability associated with the design, performance and operation of the facility remains with the owner and the owner's engineer. All final plats shall have a section that details that the City reserves the right to require the owners of all drainage facilities to perform needed maintenance operations .

Operation and maintenance of the stormwater management facility(s) is the responsibility of the property owner. The design engineer shall be responsible for developing an Operation and Maintenance Plan for each stormwater management facility. This document shall be included in the subdivision restrictive covenants. Prior to Final Plat approval, a completed Stormwater Facility Maintenance Agreement (Appendix #1) with the operation and maintenance plan shall be submitted to the Environmental Department for future maintenance responsibility. Transfer of the common area(s) to another entity (i.e. Homeowner's association) shall not occur until maintenance operations have restored facility(s) to the design specifications.

4-4-2 Inspections of Stormwater Management Facilities

Annual inspections of stormwater management facilities shall be conducted by the owner (developer or homeowner's association). The inspection shall follow an approved inspection checklist detailing issues, maintenance needs and a timeline for maintenance actions. The inspection reports shall be provided to the Environmental Department upon request.

Inspections of stormwater management areas and outfalls may be conducted by the City. These inspections shall note the condition of the detention/retention basin and outfall integrity, maintenance, erosion, or sedimentation. Entry to the stormwater facilities shall be granted by the owner, developer, or home owners association. Deficiencies of the stormwater facilities will be communicated to the owner, developer, or property owners association and those deficiencies shall be corrected within thirty days or as practicable as conditions may allow. This includes removal of any sediment in order to restore the pond's designed volume. Failure to maintain the design standards may result in a public nuisance violation.

Every 5 years upon completion, the City will require an engineer's inspection of the stormwater management facility(s). This requirement shall be included in the

Operations and Maintenance Plan. The inspection shall include structural integrity of infall pipes, outfall pipes and any control mechanisms such as weirs. It shall also include any maintenance needs. The inspection shall be submitted to the Environmental Department.

4-4-3 Escrow Account for Stormwater Facilities Maintenance

All stormwater management facilities that are developed to be owned by multi member entities such as homeowner's associations, property owners associations or similar entities shall establish and contribute annually to a Stormwater Facilities Maintenance Escrow Account. This account shall be considered a full amount once the funds equal half the initial construction costs for the stormwater management system.

Prior to final plat submittal, the owner/developer shall establish an escrow account in the amount of twenty percent of the initial construction cost of the stormwater management system, which shall be used to maintain, operate, repair, inspect or reconstruct the stormwater management system. Escrow account details shall be provided in the subdivision covenants. The Engineering Department shall review and approve the amount projected for the escrow account. Documentation showing proof of the escrow account shall be submitted with the final plat package.

Once the developer transfers the common areas and stormwater facilities to another entity (ie. home owner's association) for management, the entity shall contribute annually to the Stormwater Facilities Maintenance Escrow Account in the amount of five percent of the initial construction cost of the stormwater management system until such time that the full amount is reached.

A Maintenance Request shall be submitted to the Engineering Department for approval. This maintenance may be based on annual inspections by the entity or a city inspection. Withdrawals from the escrow account may occur for the purpose of maintenance, operation, repair, inspection or reconstruction of the stormwater management system. Once all work is completed, it will be inspected for compliance. If the maintenance cost is less than the requested funds, any excess funds shall be deposited back into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the initial funding of the account within two years of the maintenance work.

If the HOA/Maintenance Authority fails to ensure adequate funding for stormwater maintenance needs, the City may reserve the right to seek financial reimbursement for any costs associated with necessary maintenance work from the HOA, managing authority, and/or homeowners, in the event the City determines a need to enter the area to protect the health, safety and welfare of the public.

ARTICLE V

LANDSCAPING, TREE PROTECTION, & LIGHTING

5-1 GENERAL PROVISIONS

5-1.1 Jurisdiction

This article shall apply to the design and development of improvements located within the corporate limits of the city of Foley and within the extra-territorial jurisdiction for subdivisions, unless a separate or subsequent agreement between the city of Foley and the Baldwin County Commission states otherwise.

5-1.2 Responsibility

The City of Foley Engineering Department and Environmental Department shall have the authority to review and enforce this Article.

5-1.3 Enforcement

Failure to comply with any section of this Ordinance is hereby deemed a violation and shall be sufficient cause for the City of Foley, through Code Enforcement, Environmental Department and/or Engineering Department, to issue an order suspending all work ("Stop Work Order") on the site until satisfactory measures are taken to comply with this Ordinance. Any person that has violated or continues to violate this Ordinance shall be liable to criminal prosecution to the fullest extent of the law, and be punished by a fine of not less than one hundred dollars ($100.00), but not more than five hundred dollars ($500.00), or imprisonment not to exceed one hundred eighty days (180) or both. The City may recover all attorneys' fees, court costs and other expenses associated with enforcement of this Ordinance.

5-2 LANDSCAPING REQUIREMENTS

5-2.1 Applicability

A landscape plan is required for all new developments and any re-developments that require a Land Disturbance Permit.

5-2.2 General Standards

A landscaping plan shall be submitted to the Environmental Department as part of the Land Disturbance Permit. Existing landscaping on sites with existing structures or areas suitable for landscaping shall not be reduced below the landscape requirements established in this Section.

5-2.3 Detailed Requirements

The following are the minimum requirements for the landscape plan:

- The landscape plan may be designed by the developer, owner, design consultant or a landscape architect. It shall include date, scale, north arrow, title, and names and contact information for property owner(s) and landscape plan designer.
- The plan shall include location of existing boundary line dimensions of the building site, existing water sources, significant drainage features, existing and proposed streets or alleys, existing or proposed utility easements on or adjacent to the building site including overhead power lines, rights-of-way, minimum setbacks, locations of proposed parking spaces, and location of existing and/or proposed sidewalks or pedestrian paths.
- The plan shall have a minimum density of ten (10) native trees per acre of open space, common area and commercial area within the development. Palm trees and invasive exotic trees are excluded from the minimum requirements.
- The tree density may include all preserved and planted trees, as well as, trees located in buffers, parking areas, site perimeter and common areas.
- The landscape plan shall clearly show what existing trees, shrubbery, and other vegetation will be retained, as well as, what trees, shrubbery, and other vegetation shall be added to complete the final landscaping of the property.
- All disturbed areas not covered by structures and infrastructure shall include vegetative cover that accomplishes permanent stabilization.
- Irrigation is encouraged for all landscaped areas within commercial developments. Appropriate methods of irrigation may be accomplished with an adequate water supply from hose bibs and/or automatic or manual irrigation systems and/or any other appropriate methods.

5-2.3 Planting Requirements

The plan shall include planting standards to include the following requirements:

- All tree plantings shall be installed to current nursery standards.

- Trees selected for planting must be free from injury, pests, disease, nutritional disorders or root defects, and must be of good vigor in order to assure a reasonable expectation of survivability.
- Overstory tree plantings shall measure a minimum of three (3) inches, four (4) feet above grade and shall measure a minimum of eight (8) feet clear trunk.
- Understory trees shall have an initial caliper diameter of at least one (1) inch and shall measure a minimum of five (5) feet of clear trunk.
- No overstory trees shall be planted within twenty (20) feet of overhead electrical lines.
- All plantings that die or are destroyed must be replaced during the next planting season.
- Maintenance of the plantings is the responsibility of the property owner.

5-3 TREE SURVEY, PROTECTION & CREDITS

5-3.1 Tree Survey

5-3.1.1 Applicability

A tree survey is required for all new developments. If the site contains no trees, the survey is not required, but that must be stated on the landscape plan.

5-3.1.2 General Tree Survey Requirements

The tree survey shall be submitted to the Environmental Department as part of the Land Disturbance Permit. Survey may be conducted by property owner(s) or landscape plan designer.

5-3.1.3 Detailed Survey Requirements

The following are the minimum requirements to be included on the survey:

- Survey shall include date, scale, north arrow, title, and names and contact information for property owner(s) and surveyor.
- All reasonable steps shall be taken to preserve heritage trees.
- Any removed heritage trees shall require a Heritage Tree Removal Permit from the Environmental Department.
- Native trees in floodplains and wetlands shall be left in a natural state unless otherwise directed or permitted by state or federal agencies.
- The survey shall include all heritage trees (30” DBH or greater) with type, location, size and preservation or removal.

- The survey shall identify trees over 24" in DBH with type, location, size and preservation or removal.
- Wetlands, buffers and conservation green spaces are not required to be surveyed if trees are not needed to count towards minimum tree requirements. These areas should be indicated as preservation area with a square footage and estimate of canopy coverage.

5-3-2 Tree Protection & Credits

5-3-2.1 General Standards

Tree protection methods shall be included on the landscape plan or tree survey if trees will be preserved on site. Large areas of preservation such as buffers or conservation green spaces shall include tree protection fencing and signage.

5-3-2.2 Tree Credits

Preservation of existing native trees included can be credited toward the tree planting requirements of this Article according to the following ratio:

- The number of credited trees is determined by measuring the DBH of each preserved tree and dividing the sum by 6.
- To be included in the computation for credit for preserved trees, each preserved tree must be at least 8 inches DBH.

5-4 STREET & PARKING LOT LIGHTING

5-4.1 Applicability

This section applies to street lighting, parking lot lighting and retail, commercial and industrial uses that adjoin any residential use. Developments with unlit existing dedicated rights-of-way (other than a State Highway) are required to light the rights-of-way as if included in the subdivision.

5-4.2 Street Lighting

The following standards shall be followed for street lighting:

- All new developments shall install street lighting meeting Riviera Utilities or Baldwin EMC standards (based on service area).
- The cost of the required lighting shall be solely paid by the developer.
- All utilities shall be underground.
- All intersections lit with maximum pole spacing 200' staggered array.
- Lighting shall be installed at all intersections, curves, and cul-de-sacs. If additional lighting is consistent with safety and other community

needs are deemed necessary, the Engineering Department shall require the development to present a street lighting plan.

5-4.3 Parking Lot and Site Lighting

The following standards shall be followed for parking lot and site lighting:

- Lighting shall have underground electric service.
- Light poles for site lighting and parking lots shall not exceed 30 feet in height, unless variance granted by the Engineering Department for special circumstances.
- Site and parking lot lighting fixtures shall be designed and installed to cast light downward. Flag pole, tree lighting, and architectural accent lighting is allowed, subject to compliance with all other requirements.
- Where necessary, cut-off devices shall be used to minimize glare off premises.
- All outdoor lighting fixtures shall be aimed, located and maintained to avoid Disability Glare.
- High intensity light beams (i.e. outdoor search lights, lasers or strobe lights) are prohibited.
- Public utility poles located on public right-of-way shall not be used to provide on-site lighting.
- Outdoor lighting, of all types, shall be directed as to reflect away from all residential dwellings and public rights-of-way.
- The intensity, location and design (including cutoffs,) of lighting shall be such that no more than 0.2 foot candle is cast upon adjacent residential areas. Foot candle measurements are taken horizontally 3 feet above grade level and shall represent maintained lighting levels.
- In no case shall outdoor lighting exceed 60 foot candles.

ARTICLE VI

Definitions

For the purpose of these regulations, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense words used in the plural number include the singular number; the word "herein" means "in these regulations"; the word "regulations" means this "City of Foley, Land Development Ordinance." The term "shall" is always mandatory.

- ADEM: The Alabama Department of Environmental Management.

- ADEM NPDES Construction General Permit: the permit administered by ADEM through the NPDES program for construction sites equal to or greater than one acre or sites less than one acre but part of a common plan of development or sites designated by ADEM.

- Alabama Handbook: the latest edition of the Alabama Handbook for Erosion Control, Sediment Control, and Stormwater Management on Construction Sites and Urban Areas. A copy of the latest edition can be found on the Alabama Soil and Water Conservation Committee's web page (www.swcc.state.al.us).Alley: A public right-of-way primarily designed to serve as a secondary access to the side or rear of properties whose principal frontage is on another street.

- Arterial Street: A street that collects and distributes traffic to and from collector streets, connecting areas which produce large numbers of trip generations. An arterial functions to move traffic and to provide access to land uses, particularly high trip generating commercial activities.

- As-Built Engineering Plan: A post-construction record giving details of construction and locations of improvements and utilities as they were built or installed.

- BMP: Best Management Practice(s) are measures or practices used to reduce the amount of pollution entering surface waters, air, land or ground waters. BMPs may take the form of a process, activity or physical structure. There are two main types of BMPs for construction sites, those that prevent erosion and those that capture sediment.

- Buffer: An area of land recorded as common area of the Final Plat dedicated as area of preservation. A buffer physically separates and protects one area from

human disturbance or encroachment. Soil shall not be disturbed however vegetation may be managed by mowing, planting and trimming trees.

- Caliper: The diameter or thickness of the main stem of a young tree or sapling as measured

- Circumference: The distance around the periphery of a tree at 4 ½ feet above existing grade.

- City: The City of Foley, Alabama.

- City Engineer: The duly appointed Professional Engineer of the City of Foley for technical assistance on construction and engineering matters and assistance in the enforcement and administration of these regulations.

- Clearing: Any activity that removes the vegetative surface cover.

- Collector Street: A collector street has the primary function of collecting traffic from local streets and moving it to the arterial street system while also providing substantial service to the abutting land use.

- Common Area: An area of development shared by all owners and managed by either the subdivider/developer or a home owner's association. This area includes recreation facilities, stormwater management area, buffers and other landscaped areas.

- Conservation Easement: A power invested in a qualified private land conservation organization (often called a "land trust") or government (municipal, county, state or federal) to constrain, as to a specified land area, the exercise of rights otherwise held by a landowner so as to achieve certain conservation purposes. The conservation easement "runs with the land," meaning it is applicable to both present and future owners of the land. As with other real property interests, the grant of conservation easement is recorded in the local land records; the grant becomes a part of the chain of title for the property.

- Conservation Green Space: An open area with trees, shrubs, grass and other vegetation within a development. Areas may include but are not limited to common areas and landscaped islands. This does not include stormwater management facilities. This land shall be designated as being permanently undeveloped and used for recreation, conservation or preservation.

- CBMPP or Construction Best Management Practices Plan: the plan that includes research, planning considerations, systems, procedures, processes, activities and practices implemented for the prevention and/or minimization of pollutants in stormwater to the maximum extent practicable, and collection, storage, treatment, handling, transport, distribution, land application or disposal of construction

stormwater and onsite management of construction waste generated by the land disturbing activity, and to comply with the requirements of the City of Foley.

- Cul-de-sac: A minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

- Detention Basin: An artificial flow control structure that is used to contain flood water for a limited period of time.

- Developer: The owner or his legally designated representative of land proposed to be subdivided or otherwise developed.

- Development: Includes but is not limited to the design work of lot layout and the construction of infrastructure and structures. Developments include subdivisions, multi-family, commercial, and industrial facilities.

- Diameter Breast Height: The diameter, in inches, of a tree trunk measured at 4 ½ feet above existing grade. DBH is also referred to as the diameter of a tree.

- Drainage Common Area: A common area for the collection and transport of stormwater, runoff and surface waters within a development. The area is shared by all owners and managed by either the subdivider/developer or a home owner's association.

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

- Final Plat: A plat or a tract of land which meets the requirements of the City of Foley Subdivision Regulations and is in proper form for recording in the Office of the Probate Judge of Baldwin County, Alabama.

- Final Stabilization: The application and establishment of the permanent ground cover (vegetative, pavements of erosion resistant hard or soft material or impervious structures) planned for the site to permanently eliminate soil erosion to the maximum extent practicable. Established vegetation will be considered final if 100% of the soil surface is uniformly covered in permanent vegetation. Final Stabilization applies to each phase of construction.

- Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:
    - the overflow of inland or tidal waters;
    - the unusual and rapid accumulation of runoff of surface waters from any source.
- Floodplain: any land area susceptible to being inundated by water 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 elevation more than a designated height.

- Grady Pond Wetland: An artificial pond created by excavating and/or diking dry land to collect and retain water and which are used presently or in the past exclusively for such purposes as stock watering, irrigation or settling basins. These areas are typically non jurisdictional wetlands but the soils have poor percolation rates and therefore may not be used for detention purposes.

- Green Infrastructure (GI): Systems and practices that use or mimic natural processes to infiltrate, evapotranspirate, or reuse stormwater or runoff on the site where it is generated.

- Heritage Tree: A healthy, protected native tree and its root system with a diameter at breast height equal to or greater than 30" or 7'-10" circumference, whichever dimension is less. Also redbuds and dogwoods with a diameter at breast height equal to or greater than 10" or 30" circumference, whichever dimension is less.

- Impervious: Surfaces that prohibit the natural movement of water from the land surface into the underlying soils. Examples include rooftops, asphalt and concrete.

- Jurisdictional Wetland: A wetland area that meets the definitional requirements for wetlands to include the hydrology, hydric soil types and wetland vegetation as determined by the U. S. Army Corps of Engineers, 1987 Federal Wetland Delineation Manual.

- Land Disturbing Activity: Any and all activities which results in more than five hundred (500) square feet of land disturbance and/or change to the existing storm water drainage characteristics of land.

- Local Street: A local street is one whose primary function is to service abutting land use and to discourage through traffic. This includes cul-de-sacs, and residential access streets.

- Lot: A tract, plot or portion of a recorded subdivision intended as a unit for the purpose, whether immediate or future, of transfer of ownership, lease or rental, or for building development and has its principal frontage on a public street.

- Low Impact Development (LID): An approach to the maintenance of predevelopment hydrology in land development (or re-development) that works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features,

minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product.

- Operation and Maintenance Plan: the plan shall provide guidance for the operation and maintenance of the stormwater management system to include all designed facilities. It shall provide information on preventative maintenance schedules, specific best management practices for each stormwater management facility and the inspection checklist.

- Overstory Tree: A tree which, at maturity, comprises the canopy of a natural forest and which are generally greater than fifty (50) feet at mature height.

- 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 or otherwise developed under these regulations.

- Permanent Stabilization: the application and establishment of the permanent ground cover (vegetative, erosion resistant hard or soft material or impervious structures) planned for the site to permanently eliminate soil erosion to the maximum extent practicable. Established vegetation will be considered permanent if 100% of the soil surface is uniformly covered in permanent vegetation with a density of 85% or greater.

- Pervious: Surfaces that allow water to enter or percolate slowly into the earth.

- Planning Commission: The City of Foley Planning Commission.

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

- Privately Maintained Streets: Streets that shall meet the minimum design requirements for road construction, but are not accepted for maintenance by the City of Foley.

- Qualified Credentialed Professional: a Professional Engineer, Certified Professional in Erosion and Sediment Control (CPESC), registered landscape architect, registered land surveyor, Professional Geologist, registered forester, Registered Environmental Manager, or a Certified Professional Soil Scientist. The QCP shall be able to document requirements regarding proven training, relevant experience, and continuing education. The QCP shall be in good standing with the authority granting the registration or designation.

- Retention Basin: An area used to contain stormwater and runoff from the drainage area. It is an artificial lake with vegetation around the perimeter, and includes a permanent pool of water in its design. Retention basins are frequently used for

water quality improvement, groundwater recharge, flood protection, aesthetic improvement or any combination of these.

- Spill, Prevention, Control and Countermeasures Plan (SPCC): plan that is federally required for facilities that store, transfer, use or consume oil or oil products, such as diesel fuel, gasoline, lube oil, hydraulic oil, adjuvant oil, crop oil, vegetable oil or animal fat; and store more than 1,320 U.S. gallons in total of all aboveground containers (only count containers with 55 gallons or greater storage capacity) or more than 42,000 gallons in completely buried containers; and could reasonably be expected to discharge oil to navigable waters of the U.S. or adjoining shorelines, such as lakes, rivers and streams.

- State: The state of Alabama.

- Stormwater Facility Maintenance Agreement: A formal agreement between the Owner and the City that includes the owner's responsibilities concerning maintenance of the stormwater management facilities. The agreement is a covenant running with the land and is binding to the owner and any successors including homeowner's associations. SEE ATTACHMENT #1

- Stormwater Facility Maintenance Escrow Account: established by the developer, this account is set up for stormwater facility maintenance activities to retain the designed characteristics. Activities may include, but are not limited to the following: removing accumulated sediment, re-establishing vegetation, forestry mowing overgrowth, replacing hardened structures and addressing catastrophic failures due to weather events. This account shall be considered full when it reaches half of the initial construction costs for the stormwater management system.

.• Stormwater Management: The process of ensuring that the magnitude and frequency of stormwater runoff do not increase the hazards associated with flooding and that water quality protected or improved by the treatment of stormwater runoff.

- Stormwater Management Facilities: structures constructed to address post construction stormwater management to include retention ponds, detention ponds, swales, rain gardens, bio-retention areas and the infrastructure associated (infall pipes and outfall pipes)

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

- Subdivision: The development and division of a lot, tract or parcel of land into two or more lots, plats, sites or otherwise for the purpose of establishing or creating a subdivision through the sale, lease or building development. Development includes, but is not limited to, the design work of lot layout, the

construction of drainage structures, the construction of buildings or public use areas, the planning and construction of public streets and public roads, and the placement of public utilities. A subdivision does not include the construction or development of roads or buildings on private property to be used for agricultural purposes.

- Temporary BMPs: Temporary best management practices are designed to remain effective for a relatively short duration of time, usually only until the construction site is complete and permanent BMPs have been established. Temporary BMPs are only effective if they are installed correctly and maintained. These include but are not limited to silt fences, hay bales and mulch.

- Temporary Stabilization: the application and establishment of temporary ground cover (vegetative, pavements of erosion resistant hard or soft materials or impervious structures) for the purpose of temporarily reducing raindrop impact and sheet erosion in areas where permanent stabilization cannot be established due to project phasing, seasonal limitations or other project related restrictions.

- Understory Tree: A tree which, at maturity, comprises the sub-canopy of a natural forest. These are generally less than fifty (50) feet at a mature height.

- Utility Easement: A grant by a property owner for the use of land for utilities installation and maintenance. The easement shall be recorded on the Final Plat. (No title to real property is conveyed.)

- Water Quality Volume (WQV): The first 1.25" of runoff from a site, also referred to herein as first flush.

- Watercourses and Waterways: Any depression serving to give direction to a flow of water, having a bed and well-defined banks and which shall, also include other generally or specifically designated areas where flooding may occur. The flow of water need not be on a continuous basis, but may be intermittent, resulting from the surface runoff of precipitation.

- Watershed: The geographic area of land that drains runoff to a shared destination.

- Wetland: Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions as delineated by the U.S. Army Corps of Engineers. Wetlands include swamps, marshes, bogs, grady ponds, and other similar areas.

ATTACHMENT #1

STORMWATER FACILITY MAINTENANCE AGREEMENT

CITY OF FOLEY, ALABAMA
STORMWATER FACILITY MAINTENANCE AGREEMENT

THIS AGREEMENT, made and entered into this ___ day of _____, 20___, by and between
(Insert Full Name of Owner)_____
hereinafter called the "Landowner", and the City of Foley, hereinafter called the "City".
WITNESSETH, that
WHEREAS, the Landowner is the owner of certain real property described as (Tax Map/Parcel Identification Number) _____ as recorded by deed in the land records of Baldwin County, Alabama, Deed Book _____ Page _____, hereinafter called the "Property".
WHEREAS, the Landowner is proceeding to build on and develop the property; and
WHEREAS, the Site
Plan/Subdivision Plan known as _____, (Name of Plan/Development) hereinafter called the "Plan", which is expressly made a part hereof, as approved or to be approved by the
City, provides for detention of stormwater within the confines of the property; and
WHEREAS, the City and the Landowner, its successors and assigns, including any homeowners association, agree that the health, safety, and welfare of the residents of Foley, Alabama, require that on-site stormwater management facilities be constructed and maintained on the Property; and
WHEREAS, the City requires that on-site stormwater management facilities as shown on the Plan be constructed and adequately maintained by the Landowner, its successors and assigns, including any homeowners association.
NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:
1. The on-site stormwater management facilities shall be constructed by the Landowner, its successors and assigns, in accordance with the plans and specifications identified in the Plan.
2. The Landowner, its successors and assigns, including any homeowners association, shall adequately maintain the stormwater management facilities. This includes all pipes, channels or other conveyances built to convey stormwater to the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as good working condition so that these facilities are performing their design functions.
3. The Landowner, its successors and assigns, shall inspect the stormwater management facility and submit an inspection report annually. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structure, pond areas, access roads, etc. Deficiencies shall be noted in the inspection report.
4. The Landowner, its successors and assigns, hereby grant permission to the City, its authorized agents and employees, to enter upon the Property and to inspect the stormwater management facilities whenever the City deems necessary. The purpose of inspection is to follow-up on reported deficiencies and/or to respond to citizen complaints. The City shall provide the

Landowner, its successors and assigns, copies of the inspection findings and a directive to commence with the repairs if necessary.
5. In the event the Landowner, its successors and assigns, fails to maintain the stormwater management facilities in good working condition acceptable to the City, the City may enter upon the Property and take whatever steps necessary to correct deficiencies identified in the inspection report and to charge the costs of such repairs to the Landowner, its successors and assigns. This provision shall not be construed to allow the City to erect any structure of permanent nature on the land of the Landowner outside of the easement for the stormwater management facilities. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the City.
6. The Landowner, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the stormwater management facilities (including sediment removal) is outlined on the approved plans, the schedule will be followed.
7. In the event the City pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner, its successors and assigns, shall reimburse the City upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the City hereunder.
8. This Agreement imposes no liability of any kind whatsoever on the City and the Landowner agrees to hold the City harmless from any liability in the event the stormwater management facilities fail to operate properly.
9. This Agreement shall be recorded among the land records of Baldwin County, Alabama, and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowners association.

WITNESS the following signatures and seals:

_____
Company/Corporation/Partnership Name (Seal)
By: _____
_____
(Type Name and Title)
The foregoing Agreement was acknowledged before me this ____ day of _____, 20___, by
_____.
_____
NOTARY PUBLIC
My Commission Expires: _____
COUNTY OF _____, ALABAMA
By: _____
_____
(Type Name and Title)
The foregoing Agreement was acknowledged before me this ____ day of _____, 20___, by
_____.

_____
NOTARY PUBLIC
My Commission Expires: _____
Approved as to Form:

_____ _____
City Attorney Date

ATTACHMENT #2

TRAFFIC IMPACT STUDY