



SUBDIVISION REGULATIONS

for the

CITY OF FORT PAYNE, ALABAMA

Adopted by the PLANNING COMMISSION of the City of Fort Payne
October 14, 1997
(With all amendments as of April, 2008)

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ARTICLE I
PURPOSE AND TITLE

SECTION 1. PURPOSE

The purpose of these regulations is to establish objective, community-wide standards for the subdivision of land and construction of public improvements within the City of Fort Payne.

SECTION 2. TITLE

These regulations shall be known as the “*Subdivision Regulations of the City of Fort Payne, Alabama, 1997.*”

ARTICLE II
AUTHORITY AND APPLICABILITY

SECTION 1. AUTHORITY

Authority for municipal control of subdivisions within the corporate limits is granted in *Title 11, Subtitle 2, Chapter 52, Articles 2 and 3* of the *Code of Alabama, 1975*.

SECTION 2. APPLICABILITY

From and after the effective date hereof:

1. These regulations shall establish minimum standards for the subdivision of land and the construction of public improvements within the corporate limits, and all land lying within five miles of the corporate limits of the City of Fort Payne.
2. All lots which are created after the effective date of these regulations shall have adjoin a public street; except that the following types of lots may have access to a public street by means of an easement recorded in the Office of the Probate Judge of DeKalb County, which shall provide access from said lot to a public street:
 - (a) lots that are conveyed to the owners' parent, child, grandchild or sibling
 - (b) lots that contain twenty (20) or more acres
 - (c) lots that are contained in a private, gated subdivision.

SECTION 3. ADMINISTRATION

The Fort Payne Planning Commission is authorized to adopt these regulations by *Section 11-52-31* of the *Alabama Code, 1975 as amended*. Acceptance and vacation of public improvements shall be the prerogative of the City Council as prescribed by law. The Administrator and City Engineer are hereby authorized and directed to enforce these subdivision regulations.

Any owner of land within the corporate limits of Fort Payne proposing to subdivide land in a manner which does not require the construction of public improvements, shall submit a Final Plat of the subdivision to the Planning Commission. The plat shall conform to the minimum requirements set forth in these regulations.

Any owner of land within the corporate limits of Fort Payne, proposing to construct or install public improvements, or proposing to subdivide land and construct or install public improvements, shall submit a Preliminary Plat and a Final Plat of the improvements and/or subdivision to the Planning Commission.

The plats shall conform to the minimum requirements set forth in these regulations.

A final plat shall not be approved by the Planning Commission until such time as the Public Works Director has certified that the property owner has complied with one of the following alternatives:

1. Installed all improvements according to the requirements of these regulations; or,
2. Posted a performance bond assure the completion of all required improvements as required in Article IV, Section 4.

No Final Plat shall be filed or recorded in the Office of the Probate Judge until such plat and all required certifications endorsed thereon have been approved by the Planning Commission. No property owner may proceed with the sale of lots in the subdivision until said plat has been approved by the Planning Commission and filed for record in the Office of the Probate Judge of DeKalb County, Alabama.

SECTION 4. PERFORMANCE BOND

Prior to approval of a final plat where the public improvements have not been completed as approved in the preliminary plat, the developer shall post a performance bond for completion of all public improvements with the City Clerk. The City Engineer shall establish the amount of the performance bond which shall be at least two hundred percent (200%) of the total cost of installing all improvements, including grading, paving of the streets and installation of all required utilities and fees incurred during execution of the improvements. The bond shall name the City as beneficiary, shall remain in full force and effect until released by the City, and shall provide that any suit under the bond must be instated before the expiration of two (2) years from the date by which all improvements were to be completed. If in the opinion of the Public Works Director the improvements have not been installed within twelve (12) months, or have not been installed as approved in the preliminary plat, the bond shall be declared in default and the Surety may promptly remedy the default, or shall promptly

1. Complete the Improvements in accordance with its terms and conditions, or
2. Obtain a bid or bids for completing the Improvements in accordance with the Final Plat and upon determination by Surety jointly of the lowest responsible bidder, arrange for improvements between such bidder and City, and make available as Work progresses (even though there should be a default or a succession of defaults under the improvements or improvements of completion arranged under this paragraph)sufficient funds to pay the cost of completion of the Improvements together with other costs and damages for which the Surety may be liable under this bond.

ARTICLE III **DEFINITIONS**

When used in these regulations, the following words and phrases shall have the meaning given in this section:

ADMINISTRATOR: The employee of the City of Fort Payne who has been designated by the Mayor to administer these regulations.

BUILDING SETBACK LINE: That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed.

EASEMENT: A grant of rights by the property owner for use of land for specified purposes.

FINAL PLAT: A plat of a tract of land which meets the requirements of these regulations and is in form for recording in the Office of the Probate Judge of DeKalb County, Alabama, with all certifications.

GATED COMMUNITY: A private property subdivision, often surrounded by a barrier, to which entry is restricted to residents and their guests and in which the City of Fort Payne shall not construct or maintain improvement.

HEALTH DEPARTMENT: The DeKalb County Department of Health.

LOT: A parcel of land established by plat, subdivision, conveyance or as otherwise permitted by law, intended for transfer of ownership or for building development, which shall be comprised of land area or a combination of land area and water surface area, except that each lot shall be comprised of land area in an amount equal to or greater than the minimum lot area required in the zoning district in which it is located.

OWNER'S ENGINEER: An engineer registered and in good standing with the State Board of Registration of Engineers and Land Surveyors of Alabama who acts in his or her professional capacity as the agent of the owner of land to be subdivided or which is in the process of being subdivided.

PLANNING COMMISSION: The Planning Commission of the City of Fort Payne, Alabama.

PRELIMINARY PLAT: A plan of a proposed subdivision which meets the requirements of these regulations, submitted to the Fort Payne Planning Commission for consideration.

PROBATE JUDGE: The Judge of Probate, DeKalb County, Alabama.

PUBLIC WORKS DIRECTOR: The Director of the Public Works Department of the City of Fort Payne.

SEWER FACILITIES: Sewer lines, manholes, pump stations, force mains, sewer connections and other sewer related improvements included as part of the proposed subdivision.

SIDEWALK: A walkway constructed for use by pedestrians.

CITY: The City of Fort Payne, Alabama.

CITY CLERK: The duly designated Clerk of the City of Fort Payne, Alabama.

CITY COUNCIL: The City Council of the City of Fort Payne, Alabama.

CITY ENGINEER: The duly designated Engineer of the City of Fort Payne, Alabama.

ZONING ORDINANCE: The official Zoning Ordinance of the City of Fort Payne, Alabama.

ARTICLE IV **PROCEDURE FOR PLAT APPROVAL**

SECTION 1. GENERAL

The procedure for review and approval of a plat that contains proposed public improvements consists of two (2) separate steps. The initial step is the preparation and submission to the Planning Commission of a preliminary plat. The second step is the preparation and submission to the Planning Commission of a final plat, together with required certificates. This final plat becomes the instrument to be recorded in the Office of the Probate Judge. All plats shall comply with the requirements of the Zoning Ordinance.

SECTION 2. PRELIMINARY PLAT APPROVAL

Application for preliminary plat approval, a non-refundable application fee as established by the City, eight (8) prints of the plat, and a Vicinity Map drawn to a scale showing the location of the subject

property in relation to its surroundings, shall be submitted to the Planning Commission at least fourteen (14) days prior to the Planning Commission meeting.

Prior to the Planning Commission public hearing, a minimum of eight (8) prints of the preliminary plat shall be transmitted to the Administrator for distribution to the Fire Department, E911, City Engineer, affected public utilities, DeKalb County Department of Health, County Engineer and any other affected municipal or county department for review and recommendations.

Any plat submitted to the commission shall contain the name and address of a person to whom notice of a hearing shall be sent, and no plat shall be acted on by the commission without affording a hearing thereon. Notice shall be sent to the said address by registered or certified mail of the time and place of such hearing not less than five days before the date fixed therefor. Similar notice shall be mailed to the owners of land immediately adjoining the platted land as their names appear upon the plats in the county revenue commissioner's office and their addresses appear in the directory of the municipality or on the tax records of the municipality or county.

The preliminary plat, which shall meet the minimum standards of design and the general requirements and specifications for the construction of public improvements set forth in these regulations, shall contain the following information:

Preliminary Plan of the subdivision drawn to a scale of not more than one inch equals 100 feet, showing the following:

1. Name and location of the property or subdivision
2. Names of owner and designer
3. North point, graphic scale, and date
4. Amount of acreage contained in the plat
5. Topography at ten foot contour intervals
6. Street Plan which includes:
 - A. Location of all existing and proposed streets within and adjacent to the plat
 - B. Widths of existing and proposed rights-of-way
 - C. Clear identification of right-of-way location and width of any street which is considered part of the street plan
 - D. Proposed street names, which are subject to approval by the Planning Commission in correlation to the E-911 Office
 - E. Plan and profile of all streets
 - F. Typical cross-section of proposed streets
 - G. Complete curve data for the center-line of each street
7. Blocks and lots with dimensions shown for all lot lines
8. Building setback lines along each street

9. Plans of all proposed utility layouts showing feasible connections to public utility systems. Sanitary sewers connecting to the city's system shall have a plan and profile of the proposed sewer improvements. All proposed individual water supply and/or sewage disposal systems shall be approved by the County Department of Health prior to final plat approval.
10. Location and size of all proposed culverts with drainage areas, storm sewers and inlets
11. Location, width and purpose of all easements
12. Any portion of the land in the plat subject to periodic inundation by storm drainage, overflow, or pending shall be clearly shown and identified on the plat.
13. A fire protection plan showing the size and location of all existing and proposed fire hydrants which complies with the Standard Fire Prevention Code, including Section 602.5 Obstruction of Fire Hydrants and Section 602.6 Access to Buildings by Fire Apparatus
14. Location, size and type of all proposed street lights and signs

Within thirty (30) days after final submission to the Planning Commission of a preliminary plat, the Commission shall review the plat and indicate its approval, disapproval or approval subject to any required modifications. If a plat is disapproved or modified, the reasons for such disapproval or such modifications shall be expressed in the minutes of the meeting at which such action occurs. Failure of the Planning Commission to consider any preliminary plat within thirty (30) days after it has been finally submitted to the Commission shall be considered as approval of same as submitted. No plat shall be considered to be finally submitted until all required information is presented at a public hearing. The continuance of a public hearing shall delay final submission until the date of the last hearing dealing with the matter. Approval of the preliminary plat by the Planning Commission shall not constitute acceptance of the final plat.

One (1) copy of the preliminary plat shall be retained in the Planning Commission files, and one (1) copy shall be returned to the subdivider at the time of approval or disapproval, with the specific notations of any changes or modifications required.

Approval of the preliminary plat shall lapse unless a final plat in substantial conformance therewith is submitted within twelve (12) months from the date of such approval, unless an extension of time is specifically applied for by the subdivider and expressly granted by the Planning Commission

SECTION 3. FINAL PLAT

The final plat shall conform substantially to the preliminary plat as approved; and, if requested by the property owner, approval may be phased; provided, however, that each phase conforms to all of the requirements of these regulations.

At least fourteen (14) days prior to the meeting at which the final plat is to be considered, the property owner shall submit a non-refundable application fee as established by the City, the mylar drawing of the plat along with eight (8) copies, together with any street profiles or other plans which may be required by the Planning Commission.

Any plat submitted to the commission shall contain the name and address of a person to whom notice of a hearing shall be sent, and no plat shall be acted on by the commission without affording a hearing thereon. Notice shall be sent to the said address by registered or certified mail of the time and place of such hearing not less than five (5) days before the date fixed therefor. Similar notice shall be mailed to the owners of land immediately adjoining the platted land as their names and addresses appear upon the plats in the DeKalb County Revenue Commissioner's office.

The plat shall be drawn to a scale of not more than one (1) inch equals one hundred (100) feet. The final plat shall meet the Minimum Technical Standards (MTS) for land surveying in the State of Alabama as adopted by the Alabama Society of Professional Land Surveyors, and contain the following information:

1. Vicinity Sketch Map at a scale in relation to it's surroundings. The map submitted with the preliminary plat may be used.
2. Final plan of the property including the following:
 - A. Name and location of the property or subdivision
 - B. Name of owner and designer
 - C. North point, graphic scale and date
 - D. Location, width, and name of all streets, roads and other rights-of-way
 - E. Location of all blocks and lot lines with all lot numbers in numerical order
 - F. Building setback lines along each street
 - G. Sufficient data to determine readily and reproduce on the ground, the location, bearing, and length of every road line, lot line, boundary line, block line, and building line, whether curved or straight; including the radius, central angle, and tangent distance, and the length of curve for the center line of all curved roads and property lines of lots which are not the boundary of the property or subdivision.
 - H. Location, dimensions, and purpose of all easements
 - I. Location and description of all monuments and pins
 - J. Name and location of adjoining subdivisions and roads
 - K. For gated communities, the plat shall contain the following: "The developer and/or property owner shall maintain all improvements, including, but not limited to streets, medians, storm drains, and culverts, and the City of Fort Payne shall not dedicate any such improvement for public purposes and shall not maintain such improvements ."

The following certifications shall be presented along with the final plot:

1. Certification that the property owner offers to dedicate all streets, rights-of-way, associated improvements and utilities for public use.
2. Certification by a registered surveyor of the accuracy of the survey plat, and the placement of all required monuments.
3. Certification of approval by the County Department of Health, where individual sewage disposal or water systems are to be installed.
4. Certification of approval by either the Waterworks Board of the City of Fort Payne or the N. E. Alabama Water, Sewer and Fire Protection District, if the subdivision will be served by a public water system.
5. Certification of approval by either the Fort Payne Improvement Authority or the Sand Mountain Electric Cooperative.

6. Certification of approval by the Fort Payne Fire Department
7. Certification of approval by the DeKalb County Engineer.
8. Certification by the City Engineer that the property owner has complied with one of the following alternatives:
 - A. Installed all improvements according to the requirements of these regulations, or:
 - B. Posted a surety bond, certificate of deposit or irrevocable letter of credit, in an amount sufficient to assure the completion of all required improvements.
9. Certification of approval to be signed by the Chairperson of the Planning Commission, City Clerk and City Engineer.

When the final plat has been approved by the Planning Commission, one (1) copy with the approval of the Planning Commission certified thereon shall be returned to the property owner to be used for filing with the Probate Judge as the official plat of record. The original mylar containing all required certifications shall be returned to the property owner for his records, and one (1) copy shall be retained in the records of the Planning Commission.

The Planning Commission shall approve or disapprove a plat within thirty (30) days after the public hearing thereon; otherwise, such plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the commission on demand; provided, however, that the applicant for the commission's approval may waive this requirement and consent to an extension of such period. The ground of disapproval of any plat shall be stated upon the records of the commission.

Approval of the final plat by the Planning Commission shall not constitute acceptance by the city of the dedication of any street or other public way or public utility or service. After approval of the final plat and the construction of streets shown thereon, the City Engineer may recommend to the City Council that it accept the proposed public improvements and take over their perpetual maintenance.

ARTICLE V

SPECIFIC DESIGN STANDARDS

This Article sets forth the design standards and engineering criteria for the construction of public improvements.

SECTION 1. STREETS

Where a proposed plat has no frontage on an existing public road, the property owner must provide and dedicate to the City, suitable improved rights-of-way for access.

1. A typical roadway section with design grades shall be submitted for approval along with a drainage plan to the City Engineer.
2. Rights-of-way for all streets in the City shall have a minimum width of sixty (60) feet, except minor streets with curb and gutter which may have a minimum right-of-way width of fifty (50) feet. All streets shall be constructed in compliance with these regulations, including the Appendices which show cross sections.
3. Streets designed to have one end permanently closed shall be provided at the closed end with a cul-de-sac having a minimum right-of-way radius of sixty (60) feet or fifty (50) feet for minor streets with curb and gutter, and a minimum pavement radius of forty (40) feet.

4. Bituminous or concrete paving type and materials shall be approved by the City Engineer, or his designated representative, before construction.
5. Sub-grade shall be compacted and properly shaped prior to placing of base course materials. Improved roadbed or sub-grade modification of the top six (6) inches may be required. The base course shall have a compacted thickness (full width) of no less than six (6) inches and additional thickness may be required where, in the opinion of the City Engineer, or his designated representative, such additional base is needed. All base course materials shall be approved by the City Engineer, or his designated representative, as to quality and durability before hauled to the project. The City Engineer, or his designated representative, shall be notified prior to construction of the base course.
6. The layers of embankment up to the bottom layer of Improved Roadbed (if Improved Roadbed is required) shall be compacted to not less than 95 percent of maximum density as established by AASHO Test T-99. In place density will be determined by AASHO Method T-147. The Improved Roadbed (if required) shall be constructed of the last six (6) inches of sub-grade and shall be compacted to not less than 100 percent of maximum density as established by AASHO Test T-99. In place density will be determined by AASHO Method T-147. If Improved Roadbed is not required on construction, the City Engineer, or his designated representative, may require that a modification of the top six (6) inches of sub-grade be made by ripping, remixing and re-compacting to the requirements of Improved Roadbed.

Sub-base and base course layers of local material shall be placed in successive layers not to exceed six (6) inches per layer and compacted to not less than 95 percent of AASHO T-180 Method A, maximum density for material from one quarter inch down and not less than 100 percent of AASHO T-180 Method C for material from three quarters of an inch down. All testing shall be the responsibility of the developer and shall be done by an approved testing laboratory. The number and types of tests to be submitted will be determined by the City Engineer or his designated representative.

7. Except as otherwise stipulated in paragraph 5 of this Section, streets shall be paved with Bituminous Surface Treatment (A) with 125 pound per square yard plant mix ADOT Designation 416A or a State of Alabama Department of Transportation approved wearing layer.
8. Street grades over twenty (20) percent will not be permitted unless specifically approved by the Planning Commission.
9. Public utilities shall be installed in compliance with the standards required by each of the public utilities serving the proposed plat, and whenever possible, utilities shall be installed prior to acceptance of the streets for maintenance.
10. Sidewalks and/or pavement striping or marking may be required where deemed necessary for the public safety.
11. Adequate warning signs are required as part of the street development.
12. No street will be accepted as a municipal improvement until finally approved by the City Engineer and accepted by the City Council.

SECTION 2. STORM DRAINAGE

All plats, additions or extensions thereof, shall be provided with adequate storm drain facilities, constructed at designated locations determined by plans for the area under development. The plans submitted shall indicate the number of acres involved in each drainage area and the developer's engineer shall show the recommended size structure designed to fit the area. Talbot's Formula may be used for

this, using a coefficient of 0.8 to 1.0. The City Engineer will review the drainage plan and require any modifications which may be necessary to comply with these regulations.

Any areas subject to periodic flooding caused by inadequate design of drainage facilities will not be accepted by the City unless the property owner takes remedial measures to eliminate such flooding.

Where a plat is traversed by an existing or proposed water course, drainage, channel or stream, there shall be provided a storm drainage easement or right-of-way conforming substantially with the lines of such existing or planned drainage. The width of such drainage easement or right-of-way shall be sufficient to contain the ultimate channel and maintenance way for the tributary area upstream.

A complete drainage plan and contour map showing all pipe sizes and length, their location, size of drainage area for each pipe in acres, and other pertinent data shall be submitted with the preliminary plot, subject to the following minimum standards:

1. Any existing drainage pipe or structure shall be shown on the preliminary plat and contour map with pertinent notes as to area in acres served and condition thereof.
2. All off-project drainage (drainage onto property contained in the plat) shall be shown on contour maps indicating the area in acres that the plat will have to accommodate in it's storm drainage design.
3. Masonry and/or concrete drainage structures, such as catch basins, inlets, junction boxes, as well as curb and gutter and valley gutters shall be constructed to standards required by the City Engineer.
4. Catch basins and/or drop inlets shall be constructed if deemed necessary by the City Engineer or his designated representative.
5. Concrete valley gutter or combination concrete curb and gutter may be required by the City Engineer, or his designated representative, depending upon grade steepness or on long grades where cross drain pipes to divert the water is not feasible. Concrete valley gutter or curb and gutter shall be approved by the City Engineer, or his designated representative, as to width and thickness.
6. Only pipe which meets specifications equaling Alabama Department of Transportation Specifications shall be acceptable.
7. All roadway cross drain pipe shall be a minimum size of eighteen (18) inches and all side drain pipe shall be a minimum size of fifteen (15) inches.
8. Driveway and side drain pipe may be un-reinforced concrete pipe or sixteen gauge un-coated galvanized corrugated metal pipe. Reinforced concrete pipe or stronger metal pipe may be required when deemed necessary by the City Engineer or his designated representative.
9. Cross drain and culvert pipe shall be reinforced concrete pipe or sixteen gauge un-coated galvanized corrugated metal pipe up to thirty six (36) inches in diameter, fourteen gauge un-coated metal pipe up to forty eight (48) inches in diameter, and twelve gauge un-coated metal pipe up to sixty (60) inches in diameter.
10. The City Engineer, or his designated representative, shall be notified prior to backfilling of drainage structures having twenty (20) square feet or larger opening, and all concrete drainage structures.
11. No drainage structure will be accepted as a municipal improvement until finally approved by the City Engineer and accepted by the City Council.

SECTION 3. UTILITIES

1. Easements across lots or centered on rear or side lot lines shall be provided for utilities and drainage where necessary, and shall not be less than fifteen (15) feet wide, unless otherwise approved by the City Engineer for drainage or the engineering department of the specific utility.
2. To the extent possible, all underground improvements shall be installed in a sequence which prevents cutting of the pavement of any street, sidewalk or other improvement.
3. The design and specifications of the water distribution system shall meet the applicable public water system requirements.

SECTION 4. SUBDIVISION OF LAND

1. The lot size, width, depth, shape, orientation and building setback lines shall comply with the Zoning Ordinance.
2. Lot dimensions shall conform to the requirements of the DeKalb County Health Department. In cases where requirements of the various levels of government conflict, the most restrictive requirements shall apply.
3. All lots which are created after the effective date of these regulations shall have primary access to a public street by one of the following methods:
 - A. The lot shall abut a public street.
 - B. The lot shall have direct access to a public street by means of an easement recorded in the Office of the Probate Judge of DeKalb County, which shall establish a right-of-way, providing access from said lot to a public street. Private roads, or private rights-of-way which provide access from more than one lot to a public street are prohibited, except in the following cases.
 - (1) Lots which are conveyed from one family member to another.
 - (2) Where the lot(s) conveyed contains five (5) or more acres.

Lots referred to in paragraphs (1) and (2) of this subsection are exempt from the operation of the Subdivision Regulations of the City of Fort Payne, Alabama.

4. Lots and easements shall be arranged to eliminate unnecessary easement jogs or off-sets, and to facilitate the use of easements.
5. All property line corners set shall be composed of a durable material (MTS Rule No. 1.03), and driven so as to be flush with the finished grade. All lot pins and markers shall be established on the ground prior to final approval of the final plot.

ARTICLE VI INSPECTION

The property owner shall furnish the City Engineer all plans and information necessary for engineering considerations and approval for the construction of the proposed streets and drainage. The plans and information shall be furnished along with a preliminary plat and vicinity sketch certified by a registered civil engineer.

1. All proposed public improvements must be inspected by the City Engineer, or his designated representative, and approved by the Planning Commission. Construction may not commence until the Preliminary Plat has been approved by the Planning Commission.

2. The City Engineer, or his designated representative, shall be notified prior to the construction of each phase of the streets or drainage improvements.
3. No bituminous or concrete paving shall be performed until approval of the type, width and material to be used is obtained from the City Engineer or his designated representative. The City Engineer, or his designated representative, shall be notified prior to the placing of the type pavement approved.
4. Drainage structures having twenty (20) square feet or more of end area shall not be backfilled until inspected by the City Engineer or his designated representative.

ARTICLE VII
BUILDINGS NOT TO BE ERECTED OR BUILDING PERMITS ISSUED

No buildings shall be erected or building permits issued unless the improvements in the Final Plat have been completed and inspected.

ARTICLE VIII
COMPLETION OF IMPROVEMENTS

The City of Fort Payne will not construct any street, install any drainage pipe or structure, do any paving or patching or do any maintenance work until the improvements have been duly accepted by the City Council as a municipal public improvement.

The property owner shall be responsible for constructing and installing all required improvements. This may be accomplished by either installation of all required improvements by the property owner prior to submission of the final plat to the Planning Commission, or by the provision of a financial guarantee of performance.

1. The financial guarantee shall be in the form of a bond, certificate of deposit or irrevocable letter of credit, which must be approved by the City Council. The guarantee must be of an amount sufficient to cover the cost of installing all improvements including grading, paving of streets, installation of all required drainage improvements and utilities and fees encountered during construction of the improvements.
2. If within twelve (12) months after filing said guarantee the property owner has not completed all necessary improvements, or if in the opinion of the City Engineer the improvements have not been satisfactorily installed, the guarantee shall be used by the City to complete the improvements in satisfactory fashion, or the City may take such steps as may be necessary to require performance under the guarantee.
3. Final approval of street improvements may be granted and streets accepted for maintenance by the City, in accordance with one of the following provisions:
 - A. In any case in which the Planning Commission and/or the City Council may have reasonable doubt concerning the stability or proper construction of any improvement required herein, the City Council may require a one year maintenance bond. This bond shall be in cash or made by a surety company or commercial insurance company authorized to do business in the State of Alabama.
 - B. The City Clerk shall secure from all developers, an agreement to maintain backfill to the level of finished grade and to maintain improvements located thereon or therein of any excavation or fill which have been made in connection with the installation of improvements; and such agreement shall be binding on the developer for a period of one (1) year after the acceptance of such improvements by the City Council.

ARTICLE IX
VARIANCES

Where the Planning Commission finds that unnecessary hardship may result from strict compliance with these regulations due to unusual topographic or other physical conditions relating to the land that are beyond the control of the property owner, it may issue a variance from these regulations if the quality of improvements is not compromised. However, such variation shall not have the effect of nullifying the intent or purpose of the Subdivision Regulations nor Zoning Ordinance. Any variance thus authorized is required to be made in writing and spread upon the minutes of the Planning Commission, and the reason which justified the variance to be set forth.

ARTICLE X
EROSION AND SEDIMENTATION

Although erosion and sedimentation can be controlled, the City realizes that it cannot be eliminated during construction. These regulations are intended to alleviate as much of the negative impact of land disturbing activity as possible within the framework of economic feasibility. Land disturbing activity is the making of any material change to the surface of the land, including clearing, grading, excavating and filling.

1. Persons engaged in land disturbing activity, except agriculture, shall take all reasonable measures to protect public and private property from damage by such activity.
2. The person engaged in or conducting the land disturbing activity shall be responsible for maintaining all temporary and permanent erosion and sedimentation measures and facilities during the development of a site. The responsibility for maintaining all permanent erosion and sedimentation control measures and facilities, after site development is completed, shall lie with the landowner, until such time adequate vegetative cover and site stabilization is achieved as determined by the City Engineer.
3. All land disturbing activities shall be planned and conducted to minimize the size of the area to be exposed at any one time.
4. All land disturbing activities shall be planned and conducted to limit exposure to the shortest feasible time.
5. Surface water runoff originating upgrate of exposed areas shall be controlled to reduce erosion and sediment loss during the period of exposure.
6. All land disturbing activities shall be planned and conducted so as to minimize off-site sedimentation damage.
7. When the increase in the peak rates and velocity of storm water runoff resulting from land disturbing activity is sufficient to cause damaging accelerated erosion of the receiving ditch or stream channel, measures shall be taken to control both the velocity and rate of release so as to minimize accelerated erosion and increased sedimentation of the ditch or stream channel.
8. No land disturbing activity shall be permitted in proximity to a stream, lake, or other natural watercourse, unless a buffer zone is provided along the boundary, of sufficient width to confine visible siltation and/or prevent erosion, provided that the land disturbing activity is not in connection with the construction of facilities to be located on, over, or under the stream, lake, or natural watercourse
9. The angle for graded slopes shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will,

within the shortest feasible time of final grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.

10. When the person conducting the land disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained shall be considered part of the land disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land disturbing activity.
11. Temporary access and haul roads, other than public roads, constructed or used in connection with any land disturbing activity shall be considered a part of such activity.
12. Land disturbing activity in connection with construction in, on, over, or under a stream, lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the water body. The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the significant alteration to flow characteristics, except when justification for significant alteration to flow characteristics is provided.
13. Whenever the City Engineer determines that significant sedimentation is occurring as a result of a land disturbing activity, despite application and maintenance of protective practices, the person responsible for maintenance will be required to take additional protective action.

ARTICLE XI
SEVERABILITY

That each and every provision of these regulations is hereby declared to be an independent provision and the holding of any provision thereof to be void or invalid for any reason shall not effect any other provision thereof. It is hereby declared that the other provisions of these regulations would have been enacted regardless of any provisions which might have been invalid.

All ordinances or part of ordinances inconsistent herewith at the time these regulations take effect are hereby repealed.

ARTICLE XII
AMENDING REGULATIONS

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

ARTICLE XIII
EFFECTIVE DATE

These Subdivision Regulations shall take effect and be in force from and after the date of their adoption.

ADOPTED this 14th day of October, 1997.

PLANNING COMMISSION
for the City of Fort Payne, Alabama

BY:
/s/ Nancy Tcherneshoff
Nancy Tcherneshoff
Chairperson

ATTEST:
/s/ Nelda Bowen
Nelda Bowen
Secretary