



*The City Of*

**Opelika**

*Alabama*

# **SUBDIVISION REGULATIONS**

**OPELIKA, ALABAMA**

**THE CITY OF OPELIKA, ALABAMA  
&  
THE OPELIKA CITY PLANNING COMMISSION**

**SEPTEMBER 24, 1991**

## SUBDIVISION REGULATIONS

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## **SECTION I**

### **AUTHORITY AND JURISDICTION**

#### **SECTION 1.1 AUTHORITY AND JURISDICTION**

Under the authority of Title II, Article 2, Chapter 52, Section 30-36, inclusive, of the 1975 Code of Alabama and 1981 cumulative as amended which sections are hereby made a part of these regulations, the Opelika City Planning Commission, at its regular meeting on September 24, 1991 adopted by resolution, the following regulations, a copy of which has been certified to the Probate Judge of Lee County. These regulations supersede the Subdivision Regulations adopted by the Opelika Planning Commission on October 26, 1982.

From and after the effective date of adoption of the amended Opelika Zoning Ordinance, these regulations shall govern all subdivisions of land within the corporate limits of the City of Opelika and extending to the limits of the police jurisdiction of Opelika, as now or hereafter established.

Any owner of land within the limits of said subdivision jurisdiction wishing to subdivide land, shall submit to the Planning Commission a plat of the subdivision which will conform to the minimum requirements set forth in Article III of these regulations. No plat of a subdivision lying within such territory or part thereof, shall be filed or recorded in the office of the Probate Judge, and no subdivider shall proceed with improvement or sale of land until such approval entered in writing on the plat by the Chairman of the Planning Commission. (See Article IV [SECTION IV] Approval of Plats).

#### **SECTION 1.2 PENALITIES**

Any person violating any provision of this ordinance, upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500) and by imprisonment in the city jail for not more than six months or by both such fine and imprisonment and also costs of court for each offense. Each day such violation continues shall constitute a separate offense; in addition, no utilities shall be connected, no building permit, certificate of occupancy, or equivalent shall be issued until such time as the subdivision has been given such formal approval by the Planning Commission and legally recorded in the office of the Probate Judge.

The City of Opelika may enjoin any such transfer, or sale, or agreement, by action for injunction brought in any court of competent jurisdiction, or may recover the same penalty by civil fine in any court of competent jurisdiction.

**SECTION II**  
**DEFINITIONS**

**SECTION 2.1 GENERAL**

All definitions are found in Section II of the City of Opelika Zoning Ordinance and are made a part of this regulation by reference.

## **SECTION III**

### **GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN FOR THE SUBDIVISION OF LAND**

#### **SECTION 3.1 EXCEPTION**

The following planning and design standards shall be complied with no higher standard may be required by the Planning Commission except where because of exceptional and unique conditions of topography, location, shape, size drainage or other physical features of the site, or where minimum standards specified herein would not reasonably protect or provide for public health, safety, and welfare. Any higher standard required shall be reasonable and shall be limited to the minimum additional improvements necessary to protect the public health, safety and welfare.

#### **SECTION 3.2 GENERAL REQUIREMENTS**

##### **A. Conformity to the Elements of the Opelika Comprehensive Plan**

All proposed subdivisions shall conform to the City Zoning Ordinance, Subdivision Regulations, and to all elements of the city's Comprehensive Plan. Whenever a tract to be subdivided embraces any thoroughfare or part thereof designated on the Comprehensive (Major Thoroughfare) Plan, such part of such proposed public way shall be platted by the subdivider in the same location and at the same width as indicated on such city plan.

#### **SECTION 3.3 STREET LAYOUT**

##### **A. General Requirements**

The arrangement, character, extent width, grade, and location of all streets shall conform to the Comprehensive Plan and Public Works Manual and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

##### **B. Relation to Adjoining Streets System**

When proposed new streets shall extend existing streets or their projections, the widths of the new streets shall be approved by the Planning Commission, but in no case shall the streets be less than the minimum required width, unless variations may be deemed necessary by the Planning Commission for reasons of topography or design. Where, in the opinion of the Planning Commission, it is desirable to provide street access to adjoining property, for public convenience and safety proposed streets shall extend to the boundary of such property.

### **C. Alleys**

Alleys shall be provided along the rear or side of all lots as required for public health safety and/or welfare. Provision for alleys is optional except where such alleys are advisable to provide for adequate access for municipal services, or utilities. Alley intersections and alignment geometries shall be consistent with requirements established in the Public Works Manual.

### **D. Street Improvements**

Street Improvements shall be required as set for in the Public Works Manual.

### **E. Sidewalks**

Sidewalks shall be provided consistent with requirements established in the Public Works Manual. Sidewalks will be required where considered necessary for public health safety and welfare.

## **SECTION 3.4 BLOCKS**

### **A. General Requirements**

The length, width and shapes of blocks shall be determined with due regard to:

1. Provisions of adequate building sites suitable to the special needs to the type of use contemplated.
2. Zoning Ordinance and Health Department requirements as to lot size and dimensions.
3. Needs for convenient access, circulation, control and safety of street traffic.
4. Limitation due to topography.

### **B. Size, Shape, and Arrangement**

Blocks shall not be less than four hundred (400) feet no more than twelve hundred (1200) feet in length measured from centerline to centerline, except as the Planning Commission considers necessary to secure efficient use of land or desired features of street pattern. Block length is considered to be the long axis of the block. Blocks greater than twelve hundred (1200) feet in length shall not adversely affect public health, safety and welfare.

Blocks shall be wide enough to allow two (2) rows or tiers of lots except where reverse frontage on a major street is provided or where prevented by topographical conditions or size of the property; in which case the Planning Commission may approve a single row or tier of lots of minimum depths.

## **SECTION 3.5 LOTS**

### **A. General Requirements**

All building lots platted and developed in flood hazard areas in the City of Opelika will comply with applicable provisions of the Opelika Zoning Ordinance and all subsequent amendments and provide all data required in the Ordinance. Development in flood hazard areas outside the city limits of Opelika but within the jurisdiction of the Planning Commission shall be consistent with ordinances and regulations established by Lee County, Alabama.

### **B. Size, Shape, and Arrangement**

The size, shape, and orientation of lots shall be appropriate for the location of the proposed subdivision, and for the type of development contemplated, and shall conform to the following:

1. Every lot shall have access to a public street. Minimum lot frontage at the street right-of-way shall be as approved by the Planning Commission to assure adequate access for health, safety and welfare.
  - a. Within the city limits minimum lot dimensions must meet the requirements of the Zoning Ordinance, and/or the requirements of the County Health Department as reflected by percolation test data. In such cases where requirements may conflict, the larger requirements shall govern, the larger requirement shall govern.
  - b. Within the subdivision jurisdiction limits of the Planning Commission beyond the City Limits, the size and shape of lots shall be such as the Planning Commission deems appropriate for the type of use contemplated and/or requirements of the County Health Department. As a minimum, R-2 standard shall apply.
  - c. Where frontage is provided for access only, a minimum width of sixty (60) feet shall extend for the total length of access, except for the provisions applying to flag lots.
2. Double frontage and reverse frontage residential lots shall be avoided except where essential to provide separation of residential development from traffic arteries or so as to overcome specific disadvantages of topography orientation. The subdivider shall provide a Planting Screen Buffer Easement of not less than ten (10) feet in width, along the line of lots abutting such an artery or other undesirable features.

3. Corner lots shall be large enough to allow houses to conform to building lines on both the front and side streets except where the Planning Commission specifically permits waiver of the requirement.
4. Side lot lines shall be approximately at right angles or radial to curved street 1 lines on which the lot faces.
5. Flag lots shall be permitted when they meet the following conditions.
  - a. Where the flag lot makes it possible to better utilize irregularly shaped properties or areas with resource limitations.
  - b. The “pole” portion of a flag lot shall not be included as part of the lot area for the purpose of determining average lot area and the “pole” shall have a minimum width on a public street right-of-way of not less than thirty (30) feet.
  - c. Flag lots shall not be permitted whenever their effect would be to increase the number of lots taking access to a collector or arterial road. This criterion prohibits one of the most common abuses, the use of flag lots to avoid the development costs of roads. These sites are best developed without flag lots; even if the cost of the lots is thereby increased, since controlling access reduces congestion on major roads.
  - d. Minimum lot area for flag lots shall be at least twice that of the zoning district in which the flag lot is located.
  - e. Side and rear yard requirements shall be met on the lot excluding the “pole” portion of the lot.
  - f. The maximum length of the “pole” portion of the lot shall be no more than three times the lot width measured where the lot abuts the rear of the lot(s) between it and the street. This may be greater in the Agricultural Zones or in the Planning Jurisdiction outside the city limits.
  - g. City services shall be provided at the public road right-of-way.
  - h. A minimum frontage of 30 feet shall apply to lots which front upon the turn around portion of a cul-de-sac.

## **SECTION 3.6 PUBLIC USE, NATURAL FEATURES AND EASEMENTS**

### **A. Public Use**

Due consideration shall be given to the allocation of suitable areas for parks and play around and open space consistent with the Comprehensive Plan to be acquired for public use by the city.

## **B. Natural Features**

Due regard shall be shown for all natural features such as large trees, water courses, historic spots, and similar community assets which, if preserved, will add attractiveness and value to the property.

## **C. Reserved Areas**

There shall be no reserved areas for public use except those which are conveyed to or accepted by the government having jurisdiction.

## **D. Easements**

1. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and their width shall be as required by the proposed utility and/or Public Works Manual.
2. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream or if such a proposed drainage way is reflected in an adopted drainage plan, there shall be provided a storm water drainage easement or right-of-way conforming substantially with the lines of such drainage. The easement or right-of-way shall be sufficient to contain the ultimate channel and maintenance way for the tributary area upstream. All drainage plans shall be consistent with the flood boundary and floodway maps and applicable provisions of the Zoning Ordinance of the City of Opelika.

## **SECTION 3.7 IMPROVEMENTS**

### **A. General Requirements**

All improvements required under these regulations shall be constructed in accordance with specifications in the Public Works Manual for construction and under the supervision of the City Engineer or other duly authorized agent appointed by the Mayor of the City of Opelika. All sewers, drains, water lines, and other underground structures shall be installed before streets, sidewalks, or alleys are paved, with water and sewer connections provided for each lot as required by criteria established in the Public Works Manual. The end of service connections will be marked as required by the Public Works Department. All sanitary and storm sewers shall be of sufficient size to provide for future extensions to serve all tributary areas. Provision of facilities to accommodate tributary areas will be consistent with practices established by the Public Works Manual.

### **B. Roadways**

All roadways within the City Limits and police jurisdiction shall be constructed to meet the minimum standards of the Public Works Manual.

### **C. Water Lines**

1. The subdivider shall provide suitable water mains and provide a water-connection for each lot where a public water supply is reasonably accessible.
2. Where a public water main is beyond a reasonable distance or will not be accessible within a reasonable period of time, the subdivider may provide a central water system according to standards set forth by the Water Works Board of the City of Opelika and approved by the Lee County Health Department and the State Department of Health. The system shall comply with all provisions set forth herein for domestic and fire use.
3. Water mains shall be sufficient size to meet or exceed requirements for domestic service and fire protection established by the Water Board and the Fire Department of the City of Opelika.

### **D. Sanitary Sewers**

1. Where a public sanitary sewer is reasonable accessible, the subdivider shall connect with such sanitary sewer and provide a connection for each lot, or two. Where sanitary sewers are not reasonably accessible, the subdivider shall by restrictions require the disposal of sanitary sewage by the installation of septic tanks or other treatment systems, designed and installed according to the standards of the Lee County Health Department and the State Department of Health.

### **E. Storm Sewers and Drainage**

#### **1. Storm Drainage Systems**

Storm sewers, drains, and catch basins shall be provided in each subdivision. Drainage System Design shall meet requirements and standards established and set forth in the Public Works Manual and as required by the Zoning Ordinance. These storm drain systems shall discharge only into existing drains or ditches as approved by the City Engineer.

#### **2. Drainage and Inundation**

- a. A drainage Plan shall be made for each subdivision by the subdivider or his agent for review by the City Engineer. The Drainage Plan shall take into account the tributary area in which the proposed subdivision is located. Adequate provisions shall be made within each subdivision to provide drainage facilities needed within the subdivision. All proposed design and construction shall comply with the Public Works Manual.

- b. The City Engineer and/or the Planning Commission may require whatever additional engineering information deemed necessary to make a decision on subdivisions and other developments in an area of questionable drainage.
- c. Storm sewers shall be designed in accordance with good, accepted engineering practice, and in accordance with requirements established in the Public Works Manual.

#### **F. Monuments**

All survey monuments shall be installed to conform to the “Minimum Technical Standards for Land Surveys in the State of Alabama, as revised; published by the Alabama Society of Professional Land Surveyors.

#### **G. Signing**

Street name markers shall be placed at the corners of all street intersections in the city as required by the Public Works Manual.

### **SECTION 3.8 NON-RESIDENTIAL SUBDIVISION**

#### **A. Procedure**

The procedure for filing and receiving review of non-residential plats or development plans shall be the same as specified in Article IV.

#### **B. Minimum Design Standards**

The minimum design standards for non-residential plats shall be the same as specified in Section 3.7, unless specifically altered by requirements of the Public Works Manual.

### **SECTION 3.9 SIZE, SHAPE, AND IMPROVEMENT OF LOTS IN THE SAUGAHATCHEE WATERSHED<sup>1</sup>**

#### **PURPOSE**

The purpose of these regulations is to prevent water quality degradation of the Saugahatchee Watershed and to ensure the adequate protection of our present and future drinking water supply source by minimizing the amount to pollution, contaminates, and sedimentation discharged in the Watershed from agricultural, industrial, urban, or construction related surface water runoff, erosion, and sedimentation.

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<sup>1</sup> Date of Amendment: July 27, 2004  
Resolution No. 02-04

## DEFINITIONS

**Best Management Practices (BMP).** A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

**Buffer.** An area of natural or planted, vegetation through which storm water runoffs flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the full pool elevation of impounded structures and from the top of the bank of each side of streams or rivers.

**Building.** Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

**Cluster Development.** The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

**Critical Area.** The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as that area within the watershed extending 2,500 feet from the full pool elevation of the reservoir in which a water supply intake is located and areas of the watershed within 1,000 feet measured from the center line of major tributaries. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one mile. The critical area may be extended as needed.

**Development.** Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

**Dwelling Unit.** A building or portion thereof, providing complete and permanent living facilities for one family.

**Existing Development.** Those projects that are built or those projects that at a minimum have established a vested right based on at least one of the following criteria:

1. substantial expenditures of resources (time, labor, money) based on reliable evidence or testimony from a municipal official authorizing a project to proceed, or
2. having an outstanding valid building permit, or

3. having received conditional use approval or at least preliminary subdivision plat approval

**Full Pool Elevation.** Elevation of the principle spill-way of the reservoir impounding structure and/or the elevation established by the United States Army Corps of Engineers.

**Impervious Surface.** Impervious surfaces shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, driveways, pavement, roads recreation facilities i.e., tennis courts swimming pool (Note: Wooden slatted decks or pervious surfaces and natural materials on pervious surfaces, I.e., mulch playgrounds or walking trails are considered pervious).

**Major Tributaries.** A stream with an annual average flow rate of 7 cfs (cubic feet per second).

**Non-residential Development.** All development other than residential development, agriculture and silviculture.

**Residential Development.** Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc., and their associated outbuildings such as garages, storage buildings, gazebos, etc., customary home occupations.

**Single Family Residential.** Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit. Family is defined as one or more persons related by blood, marriage, or legal adoption, or not more than six unrelated persons occupying a dwelling unit and living as a single housekeeping unit and doing their cooking on the premises.

**Structure.** Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

**Water Dependent Structure.** Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas not water dependent structures.

**Watershed.** The entire land area contributing surface drainage to a specific point (e.g. the water supply intake), as shown on the Saugahatchee Watershed map.

**Watershed Administrator.** The General Manager of the Utilities Board or his designee.

### **Applicability.**

These regulations shall apply to those properties within the city limits of Opelika, the planning jurisdiction, and the Saugahatchee Watershed as shown on the map entitled “Saugahatchee Watershed” which is adopted as a part of these regulations.

The Saugahatchee Watershed is hereby divided into two areas:

1. Watershed Critical Area (WCA) – Those areas within 2,500 feet measured from full pool elevation and within 1,000 feet measured from center line of major tributaries as shown on the map entitled “Saugahatchee Watershed.”
2. Watershed Protected Area (WPA) – all other areas of the watershed outside the WCA.

### **Uses Allowed for the WCA and the WPA**

Land uses within the City limits of Opelika shall be those uses outright allowed or allowed with conditional use approval as provided in the Zoning Ordinance, Section 7.3 C. *Use Categories*

### **Development Regulations – WCA**

Any new development activities that require an erosion and sediment control plan, under State or local law, or a building permit are required to meet the provisions of these regulations when located in the WCA area of the watershed.

Density and Impervious Surface Area with public sewer:

- a. Single-Family Residential developments shall not exceed two dwelling units per acre on a project-by-project basis. No single family residential lot shall be less than one-half (1/2) acre (21,780 sq. ft.) except within an approved Planned Unit Development or cluster development.
- b. All multi-family or non-residential development shall not exceed twenty-four percent (24%) impervious surface area on a project-by-project basis. For the purpose of calculating the impervious surface area, total project area shall include total acreage in the tract on which the project is to be developed.

### **Density and impervious surface area without public sewer.**

- a. When public sewer is not available and following shall apply: A minimum of of three (3) acres shall be required for each single-family residential lot. All multifamily developments shall be allowed 24% impervious surface area. Higher density may be permitted by the Watershed Administrator if demonstrated that equal or better water quality protection is provided.

### **Development Regulations – WPA**

Any new development activities that require an erosion and sediment control plan, under State or local law, or a building permit are required to meet the provisions of these regulations when located in the WPA area of the watershed.

Density and Impervious Surface Area with public sewer:

- a. Detached single-family residential uses shall develop at a maximum density of two (2) dwelling units per acre. Three dwelling units per acre may be developed without curb and gutter if the Watershed Administrator approves BMPs for stormwater controls. A single-family residential lot shall be no less than 20,000 square feet with a curb and gutter system or 15,000 square feet for projects without a curb and gutter system.
- b. All multi family residential and non-residential developments shall be allowed at a maximum of twenty-four percent (24%) impervious surface area. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) impervious surface area on a project-by-project basis. Density and Impervious Surface Area without public sewer.
- c. A minimum of three (3) acres shall be required for each single-family residential lot. All multifamily developments shall be allowed 24% Impervious Surface area or a 36% Impervious Surface area for projects without curb and gutter. However, higher density may be permitted by the Watershed Administrator if demonstrated that equal or better water quality protection is provided.

### **Best Management Practice – BMP's**

Development plans for the construction of buildings and/or streets shall incorporate Best Management Practices as recommended by ADEM and as provided in the City of Opelika's erosion and sediment control ordinance (Ord. #116-02) in order to minimize impervious surface areas, direct storm-water away from surface waters, and minimize water quality impacts. Animal operations greater than 100 animal units shall also employ Best Management Practices as recommended by the Soil and Water Conservation Commission.

### **Exceptions to Applicability.**

Existing developments, as defined in these regulations, are not subject to these requirements. Expansions to structures classified as existing development must meet these requirements, however, if a new development is proposed on a parcel that has existing development, then the impervious surface area calculations of the new development.

**Cluster Development.**

Clustering of development is allowed in all Watershed Areas under the following conditions:

- a. Minimum lot sizes are not applicable to single-family cluster development projects. The total number of lots may exceed density allowed for multi-family developments in the underlying zoning district with approval. Refer to section 7.3 in the Opelika Zoning Ordinance.
- b. Impervious Surface area or storm water control requirements of the project shall not exceed that allowed by these regulations or the watershed area in which the project is located.
- c. All impervious surfaces shall be designed and located to minimize storm-water run-off impact to the receiving waters and minimize concentrated storm-water flow.
- d. The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management. Where a property association not incorporated, a maintenance agreement shall be filed with the property deeds.

**Buffer Area and Building Setback Requirements.**

- a. A minimum one hundred (100) foot undisturbed vegetative buffer strip for slopes less than 10% or a two hundred (200) foot undistributed vegetative buffer strip for slopes greater than 10% is required for development activities along all perennial and intermittent waters.

A minimum three hundred (300) foot building setback is required for slopes less than 10% or a five hundred (500) foot building setback is required for slopes greater than 10% along all perennial and intermittent waters.

The perennial and intermittent waters above shall be determined from the most recent versions of U.S.G.S 1:24,000 (7.5 minute) scale topographic maps, local government and reliable as determined by the Watershed Administrator shall be used.

The buffer strip and building setbacks shall be required unless the applicant demonstrates to the Watershed Administrator that a lesser distance (but not less than thirty (30) feet) is adequate by using BMP's to reduce stream pollution. Other evidence to reduce buffer distances may be based on topography, soils, geology, and other pertinent information or an impact study prepared by a professional engineer may be required.

- b. No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize impervious surface area, direct runoff away from the surface waters and maximize the utilization of storm-water Best Management Practices. Desirable artificial stream-bank or shoreline stabilization is permitted.
- c. To avoid a loss of effectiveness in protecting streams, the stream buffer shall remain in natural undisturbed vegetation, except as provided below.
  - 1. Clearing, grading or other land disturbing activities which would reduce effectiveness of the buffer shall be re-vegetated.
  - 2. Buildings and other features that require grading and construction shall be set back at least ten (10) feet from the edge of the buffer. Crossings by streets, driveways, culverts, railroads, recreational features, intakes, docks, utilities, bridges or other facilities shall be designed to minimize the amount of intrusion into the buffer. The buffer can serve to meet minimum lot size requirements if there is sufficient buildable area remaining on the lot.
  - 3. Stream buffers can be used for passive recreational activities such a walking and bicycling trails, provided that service facilities for such activities, including but not limited to parking, picnicking and sanitary facilities, such as boat for fishing piers shall require an approved use permit from the Watershed Administrator of the City of Opelika.
  - 4. Clearing and re-vegetating the stream buffer for the purposes of improving its pollutant removal efficiency may be permitted.

### **Rules Governing the Interpretation of Watershed Area Boundaries.**

Where uncertainty exists, the Watershed Administrator shall interpret the location of the Watershed boundaries. A surveyed plat prepared by a registered land surveyor may be submitted to the Watershed Administrator as evidence that one or more properties along these boundaries are not within the watershed.

### **Existing Development.**

Any existing development may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet these requirements. However, the impervious surface area of the existing development is not required to be included in the density calculations.

- a. Vacant Lots. This category consists of vacant lots for which plats or deeds have been recorded in the Lee County courthouse. Lots within the Watershed and within the City limits of Opelika may be used for any of the uses allowed as provided in the Zoning Ordinance, Section 7.3 *Use Categories* provided the following:

1. Where the lot area is below the minimum required the Watershed Administrator of the City of Opelika is authorized to issue a Watershed Protection Permit.
  2. Notwithstanding the foregoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this regulation, and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located such lots shall be combined to create one or more lots that meet the standards of these regulations, or, if this is possible, reduce to the extent possible the nonconformity of the lots.
- b. Occupied Lots. This category consists of lots, occupied for residential purposes at the time of the adoption of these regulations. These lots may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied are in single ownership at any time after the adoption of these regulations, and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed area in which they are located. Such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.
- c. Reconstruction of Buildings or Impervious Surface Areas. There are no restrictions on single-family residential development. Any other existing building or impervious surface area not in conformance with these regulations that have been damaged or removed may be repaired and/or reconstructed provided:
1. Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.
  2. The total amount of space devoted to impervious surface areas may not be increased unless storm water control that equals or exceeds the previous development is provided.

**Watershed Protection Permit.**

- a. No building or impervious surface area shall be erected, moved enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until the Watershed Administrator has issued a Watershed Protection Permit. No Watershed Protection Permit shall be issued except in conformity with the provisions of these regulations.
- b. Watershed Protection Permit applications shall be filed with the Watershed Administrator. The application shall include supporting documentation deemed necessary by the Watershed Administrator.
- c. A Watershed Protection Permit shall expire if the applicant does not obtain a Building Permit within twelve (12) months from the date of issuance.

**Building Permit Required.**

No building permit that is required shall be issued for any activity for which a Watershed Protection Permit is required until the Watershed Protection permit has been issued.

## **SECTION IV**

### **APPROVAL OF PLATS**

#### **SECTION 4.1 PROCEDURE FOR REVIEW AND APPROVAL**

The procedure for review and approval of a subdivision plat consists of three (3) separate steps. The initial step is the preparation and submission of a Sketch Plan of the proposed subdivision to the Planning Commission for their advice and review. This step is optional and is provided for the convenience of the developer. The second step is the preparation and submission of a Preliminary Plan of the proposed subdivision for Planning Commission approval. The third and final step is the preparation and submission to the Planning Commission of a Final Plat together with all required certificates. This Final Plat becomes the instrument to be recorded in the Office of the Judge of Probate when duly signed by the Planning Commission.

#### **SECTION 4.2 SKETCH PLAN REVIEW AND APPROVAL**

##### **A. General**

The purpose of this review is to give the subdivider and/or his agent an opportunity to confer with the Planning Commission about the proposed subdivision in order to eliminate wasted engineering time, money, and effort.

The Planning Commission recommendation concerning a subdivision sketch plan is primarily an assistance and advisory service based on general information and is not studied or reviewed in depth and is not binding toward Preliminary Plat approval by the Planning Commission.

##### **B. Steps in Obtaining Approval**

The subdivider or his agent should submit eighteen (18) copies of the sketch plan to the City Planner in order to obtain their specifications and recommendations.

###### **1. General**

A sketch plan if submitted shall be drawn at an approximate scale of not less than one hundred (100) feet to one (1) inch or smaller scale as approved by the City Engineer where needed for platting clarify. The subdivider or his agent shall submit the following required information to the Planning Commission at least fifteen (15) days prior to the regular monthly meeting of the Planning Commission, at which the Sketch Plan is to be considered. Three (3) copies of the plat shall be on sheets at least 24" x 36" in size and fifteen may be reduced copies on 11" x 17" paper. Sketch Plan

The following information is required for sketch subdivision layouts:

- a. Existing covenants; if applicable;
- b. Number of and type lots;
- c. Typical lot width, depth, and area;
- d. Proposed utilities drainage and street improvements (not detailed engineering);
- e. Name of subdivision or other identification;
- f. Boundary lines of the proposed subdivision;
- g. Location of all streets within subdivision boundary;
- h. A sketch vicinity map showing the location of the proposed subdivision to the surrounding area;
- i. Approximately Flood Hazard Area.

The Sketch Plan is reviewed for conformance to Subdivision Regulations, Zoning Ordinance, the Comprehensive Plan, the Public Works Manual, and other land regulating policies or plans.

The Planning Commission will review the Sketch Plan as submitted or as last modified and will recommend conditions or reservation; or recommend disapproval of the Sketch Plan. The Planning Commission will notify the subdivider or his agent of their recommendations.

The Planning Commission may hold a public hearing regarding the subdivision, if deemed advisable. All Commission action will be recorded in the Planning Commission minutes.

## **SECTION 4.3 PRELIMINARY PLAT REVIEW AND APPROVAL**

### **A. General**

The subdivider must formally make application for Preliminary Approval which is mandatory before the Subdivision can be reviewed for Final Approval. Preliminary Approval shall be tentative in nature and shall in no way constitute a waiver of the requirements to be met for Final Plat Approval, and shall lapse if Final Plat Approval is not obtained within one (1) year, unless such period of time is extended by the Planning Commission.

### **B. Procedure Requirements**

The subdivider or his agent shall submit twenty-one (21) copies of the Preliminary Plan to the City Planner at least fifteen (15) calendar days prior to the Planning Commission meeting at which it is to be considered. Three (3) copies of the plat shall be on sheets at 24" x 36" in size and (17) copies of the "11 x 17" paper.

#### **1. General**

A Preliminary Plan of the proposed subdivision at a scale not smaller than one hundred (100) feet to the inch or smaller scale as approved by the City Engineer where needed for platting clarity shall be submitted to the Planning Commission.

## 2. Preliminary Plat Data

The following information is required for Preliminary Plan layouts.

- a. Location sketch map showing relationship of subdivision site to area.
- b. The subdivision name, the names and addresses of the owners and of the designee of the plat shall appear on the plat.
- c. All water lines, sanitary sewers, storm sewers and drainage, grading and paving shall be designed to meet the specifications of the City of Opelika and conform with requirements of the Public Works Manual.
- d. Preliminary Sketch Plans of proposed utility layouts (sewer, water, electricity) duly approved by the appropriate utility departments indicating pipe sizes and the location of valves and fire hydrants, and showing feasible connection, where possible, to existing and proposed utility systems.
- e. Date, approximate north direction, and scale.
- f. The location of existing and platted property lines, streets, buildings, water courses, railroads, sewers, bridges, culverts, drainpipes, water mains, and any easements, both of the land subdivided and on the adjoining land.
- g. The names of adjacent subdivisions and the names and addresses of record of owners of adjoining parcels of land as they appear on the current tax records.
- h. The names, locations, widths, and the dimensions of proposed streets, alleys, easements, parks and other open spaces, reservations, lot lines, and building lines.
- i. Contours at vertical intervals of not more than five (5) feet when required by the Planning Commission (depending upon topography).
- j. Profiles of all proposed streets showing natural and finished grades drawn to a scale of not less than one inch equals one hundred (100) feet horizontal and one inch equals twenty (20) feet vertical and such plans as may be specifically required under Section 32.

- k. Flood Hazard Area as indicated on the City of Opelika, Alabama Flood Boundary and floodway map, produced by the National Flood
- l. Insurance Program. Location shall be shown on plat. If not affected, that shall be noted on plat.

### **C. The Planning Commission's Review**

The Planning Commission's Review of this preliminary plan shall be governed by the procedure set forth in Title II, Article II, Section 11-52-30 through Sections 11-52-36 of the 1940 Code of Alabama, (recompiled 1975 and 1981 Cumulative as amended). The Planning Commission, in its review, shall transmit the proposed plan to any other interested city or county department for review and recommendation in relation to specific service problems.

### **D. Approval Conditions**

The approval of the preliminary plat and proposed street and utility improvements shall not be deemed final acceptance but rather an expression of approval of the layout as submitted on the preliminary plat; such approval shall not be noted on the preliminary plat. One copy of the preliminary plat shall be retained in the Planning Commission files.

## **SECTION 4.4 FINAL PLAT APPROVAL**

### **A. General**

The final plat shall conform substantially to the preliminary plat as approved and shall be submitted to the Planning Commission in quadruplicate (4) at least fifteen (15) calendar days prior to the meeting at which is to be considered; one copy of which shall be the original drawings. Unless this is done within one year of the Planning Commission's approval of the preliminary plat, such preliminary approval shall lapse. This may be extended for up to ninety (90) days by the City Planner if reasonable progress is being made on improvements.

Final plat approval shall not be given at the same meeting as preliminary plat approval unless the plat does not involve the construction of any public improvements. When public improvements are constructed, a minimum of twenty (20) days shall elapse between preliminary and final approval.

### **B. Improvements<sup>1</sup>**

If desired by the subdivider, the final plat may constitute only that portion of the approved preliminary plat which he proposes to record and develop at the time; all of this provided, however, that such portion conforms to all requirements of these regulations.

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<sup>1</sup> Date of Amendment: November 28, 2006  
Resolution No. 01-06

Final Approval of a subdivision by the Planning Commission is required prior to the recording of the plat in the Office of the Probate Judge. It is not legal to "transfer or sell" any land in said subdivision until the Plat is recorded.

No building permit or Certificate of Occupancy will be issued until such time as the subdivision has been given final approval, with signatures as required below [C. Final Plat requirement] and recorded.

1. When infrastructure improvements (street, curb & gutter, sanitary sewer, water, storm drain system) are installed, constructed and completed prior to recording of the final plat, the City Engineer and the appropriate City department must certify that all streets shown on the plat have been graded and improved, except for the final asphalt wearing surface, and that the sanitary sewer system, water lines, and storm water facilities have been installed, tested, and are functioning according to the City or utility provider specifications and the approved construction plans.

The conduit for all utilities (water, power, sewer, gas, telephone, cable) crossing roadbeds of new streets shall be installed before the final plat is recorded. (See Section 26-69, Work in the Public Right-of-way in the Code of Ordinances – City of Opelika, Alabama.) The developer shall use property pins as reference points to locate the conduit across roadbeds and the rights-of-way. Unless otherwise directed by the appropriate utility company, the developer shall be responsible for digging the trench, installing conduit, and backfilling for the purpose of installing road crossings, in accordance to the utility's design drawing and specifications. All conduits shall be plugged and stringed. If the utility company encounters obstructions which prevent the utility line from being pulled, the developer will be required to correct the conduit system. The developer shall use conduit material per utility provider specifications. The monitoring and installation of conduit will be subject to inspection and written approval by the appropriate utility company. The appropriate utility company reserves the right to require the developer to suspend work in the event the utility has any concerns with the construction or installation. In the event the conduit system is covered prior to inspection or deviates significantly from the approved utility design drawing, the appropriate utility may require that the conduit system be uncovered as necessary to determine that the conduit was constructed and installed according to the utility design drawings or the appropriate utility specifications. Following approval and acceptance of the installation, the conduit shall be owned and maintained by the appropriate utility company.

If a revision of the said approved preliminary plat is necessary and lot lines are relocated, the developer shall provide to the said utility companies the revised preliminary plat approved by the Planning Commission. The developer shall also be responsible for all costs that occur because of revisions to the preliminary plat as determined by the appropriate utility.

A Performance Security shall be provided before the final plat is recorded in the form of a cash escrow, an irrevocable letter of credit, or performance bond guaranteeing the installation of the infrastructure improvements and the conduit across roadbeds. The amount of said security shall be 125% of the cost of the actual infrastructure cost as determined by a certified engineer's estimate.

Upon final acceptance of said infrastructure improvements by the City Engineer or appropriate City department, the subdivider/developer shall post a Security Instrument (Warranty Bond) in the amount equal to 25% of the actual construction cost of the improvements for the purpose of correcting any construction, design or material defects or failures within the public rights-of-way or easements in the development or required off site improvements. The form and manner of execution of said security instrument shall be subject to the approval of the city attorney. The effective term for said security instrument shall be at least one year following the City's approval and acceptance of the installed or constructed improvements or less than a year as determined by the City Engineer and appropriate City departments. The City will give notice of observed failures in the infrastructure or improvements. Thereafter, the developer shall have twenty-one (21) calendar days to initiate corrective measures. If said corrective measures are not satisfactorily completed promptly the City may exercise its right under the security instrument and submit a written notice to the parties of the security instrument explaining the default. It is the responsibility of the subdivider/developer to ask for a release of the said security instrument. Eligibility for a final release of the security shall be determined by the City Engineer and appropriate City department's approval and acceptance of the installed infrastructure improvements. The final release of the security shall be subject to the terms of the security or released by the City at the expiration of its effective period.

2. An assessment petition, approved by the City Attorney, whereby the City is put in an assured position to make these improvements and to install these utilities and facilities at any time and without cost to the City.

A receipt of a certificate from a land surveyor that permanent reference monuments of suitable size and materials have been placed in the subdivision and that a satisfactory survey defines such permanent monuments in relation to located section corners or the coordinate system of the State of Alabama.

### **C. Drawings<sup>2</sup>**

The developer/subdivider shall provide drawings indicating the locations of all said infrastructure and utilities installed across road crossings. The preferred drawings are "as-built" drawings, but if utility installation deviates from the original design drawings then general design drawings of the location of utilities are accepted. Drawings shall be prepared and certified by either a registered land surveyor or a professional engineer.

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<sup>2</sup> Date of Amendment: November 28, 2006  
Resolution No. 01-06

Drawings shall be submitted to the Engineering Department prior to final plat approval. Rights of way, easements, street names, and lot lines shall be accurately shown. The drawings shall include the horizontal and vertical location of sewer and water lines, gas lines, cable, telecommunications and electrical lines, including the necessary utility accessories as required by the appropriate City department. The said drawings shall include the storm drainage system with the locations and elevations of all drainage structures. Five (5) copies of the drawings drawn to scale on 24" x 36" paper shall be provided. Drawings shall also be provided in an AutoCAD (.dwg) file format or another format approved by the City Engineering Department. The said drawing shall be referenced to the NAD 1983 Alabama State Plane Coordinate system.

#### **D. Final Plat Requirements<sup>2</sup>**

The final plat shall be drawn on film or mylar on twenty-four (24") by thirty-six (36") inches and shall be at a scale of one hundred (100) feet to one (1) inch or at a suitable engineering scale as approved by the City Engineer where needed for platting clarity. Where necessary the plat may be on several sheets accompanied by an index sheet showing the entire subdivision. The final plat shall show the following:

1. Primary control points, or description and "ties" to such control points to which all dimensions, angles, bearings, and similar data on the plat shall be referred.
2. Tract boundary line, right-of-way lines of streets, easements, and other rights-of-way and property lines of residential lots and other sites with accurate dimensions; radius, and length of curve, for all curves.
3. Name and right-of-way width of each street or other right-of-way.
4. Location, dimensions and purpose of any easements.
5. Provision of utility easement as required for electrical utilities.
6. Purpose for which sited, (other than residential lots) if lots are reserved or dedicated for other purposes.
7. Locations and description of monuments.
8. Names and addresses of record owners of adjoining land, including property with frontage along rights-of-way which bound the subject property.
9. Reference to recorded subdivision plats or adjoining platted land by record name, date and number.
10. Certification of surveyor certifying to accuracy of survey and plat.
11. Certification of title showing that applicant is the land owner.
12. Title, scale, north direction, and date.
13. Certificate by the County Health Officer when individual sewage disposal or water systems are to be installed.
14. Certificate for approval by the Planning Commission.
15. Flood Hazard Area as indicated on the City of Opelika, Alabama flood boundary and floodway map produced by the National Flood Insurance Program.
16. Certificate by County Engineer that all conditions have been met.
17. Certificate of easement statement
18. Certificate of approval by the Utility Board

19. Certificate of approval by Opelika Light & Power, if served by Opelika Light & Power

#### **SECTION 4.5 RECORDING OF PLAT AND HOUSE NUMBER ASSIGNMENT**

Upon approval of the plat a legible mylar reproducible of the plat with all required certifications shall be in the files of the Planning Commission; one (1) copy upon which the City Engineer shall assign house numbers to each lot, and one (1) copy to be retained in the City Engineer's Office.

#### **SECTION 4.6 AUTOMATIC APPROVAL**

Failure for the Planning Commission to approve or disapprove the final plat within thirty (30) days after submission shall be deemed approval of the plat. Automatic Sketch Plan or Preliminary Plat approval does not constitute final acceptance. Automatic approval applies only to the level for which acceptance has been applied.

#### **SECTION 4.7 PLAT DISAPPROVAL**

If the plat is disapproved, the grounds for disapproval shall be stated upon the records of the Planning Commission.

#### **SECTION 4.8 FAILURE TO RECORD FINAL PLAT<sup>3</sup>**

Approval of the final plat by the Planning Commission shall be null and void if the Plat is not recorded within one year after the approval date, unless a written application for an extension of time is made during said one year to the Planning Commission and granted.

Approval of the final plat by the Planning Commission shall be null and void if the Plat is not recorded within one year after the approval date, unless a written application for an extension of time is made during said one year to the Planning Commission and granted.

#### **SECTION 4.9 STREET AND UTILITY MAINTENANCE**

No street or utility facility as shown on the plat shall be accepted for maintenance by the City unless the developer shall fully comply with all requirements imposed by this Section. The requirements for obtaining an acceptance of the dedication of streets and utilities are as follows:

- A. All streets and utilities shall be installed as platted or mapped and in accordance with City Specifications.
- B. Upon completion of such streets and utilities, the City Engineer shall conduct inspections to determine compliance or noncompliance with the terms of this

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<sup>3</sup> Date of Amendment: November 28, 2006  
Resolution No. 01-06

Section. If said streets and utilities are in compliance, the City Engineer shall issue a certificate as provided in Section 42.2.A.

- C. The developer shall submit a deed, in form as approved by the City Attorney, granting to the public the premises intended for public streets and utilities and assenting to the maintenance of all streets and utilities for a period of one (1) year from the date of acceptance of the dedication thereof by the City Council.
- D. The City Council shall acknowledge its acceptance of the dedication of such streets and utilities by a formal resolution recognizing them as dedicated streets and utilities. Upon the expiration of one (1) year from the date of such acceptance by the City Council, the City of Opelika shall be responsible for each street and utility which has been accepted by the City Council.

#### **SECTION 4.10 PRIVATE SUBDIVISIONS**

- A. A private subdivision is one in which road systems and utilities are not dedicated to the public.
- B. Improvements within proposed private subdivisions shall meet regular subdivision standards and the private status shall not be effective until final plat recording.
- C. A gate may be established after construction to limit access.
- D. The private status of the subdivision shall be clearly stated on the record final plat.
- E. As long as the subdivision remains private, the roads, structures and drainage shall be maintained by the developer and/or property owners. This shall be clearly stated to those who purchase a parcel(s) within the subdivision and shall be stated in writing on each property deed. The procedure for accomplishing this shall be outlined in a letter to the Opelika Planning Director for his file.
- F. A subdivision will not be considered as a "Private Subdivision" if the proposed development prevents access or "land locks" adjoining property.
- G. If a private subdivision is recorded in Lee County Probate Office and the property owners (100%) at some future date desire to eliminate the private subdivision and substitute in its place a city maintained subdivision, the owners must petition the City of Opelika for tentative approval. If the City of Opelika gives tentative approval of the petition, the owners shall submit subdivision plans to the Planning Commission including improvements and repairs that may be required according to Opelika Subdivision Regulations effective on the date of the petition. It shall be the responsibility of the owners to prepare the revised final plat according to existing standards for approval and recording to Lee County Probate Office.

## SECTION 4.11 ADMINISTRATIVE SUBDIVISION

- A. Purpose.** For the purpose of this section an administrative subdivision is re-subdivision involving not more than four (4) contiguous lots fronting on an existing street, and which requires no new streets or easements; and when in the opinion of the City Engineer no engineering service is required. Except as otherwise specified the re-subdivision and plat thereof shall conform to all requirements of the Subdivision Regulations of the City of Opelika, adopted September 24, 1991.
- B. Submission.** No preliminary plat or engineering plans are required to be submitted of an administrative subdivision. A final plat shall be submitted which conforms to all requirements and provides all information specified for a final plat as described in Sections 4.3, 4.4, and 4.5 of the Subdivision Regulations of the City of Opelika, adopted September 24, 1991.
- C. Review and Approval.** Formal submission and approval by the Planning Commission shall not be required for an administrative subdivision. Where a proposed re-subdivision upgrades or maintains relatively constant lot sizes or conditions and the subdivider has secured a written waiver of legal notice and hearing from the immediately adjoining property owners, the Planning Commission Chairman or Vice-Chairman, City Planner and City Engineer may, after investigation, approve said re-subdivision for immediate recording. The Planning Commission shall ratify its approval at its next regular meeting at which time said application shall appear on its agenda. However, the City Planner may require that an administrative subdivision be presented to the Planning Commission for consideration for approval.

**SECTION V**  
**VARIANCES**

**SECTION 5.1 HARDSHIP**

- A.** Where a subdivider can show that there are extraordinary hardships brought about by complete compliance with these regulations, or that extraordinary topographic conditions exist, or where innovative new types of development would not lessen the quality of development, the Planning Commission shall have the power to vary the regulations so that substantial justice may be done and the public interest secured, provided, traffic capacity of any thoroughfare is not reduced below the level that is shown on any City plan and there is no adverse effect on public health safety or welfare.
- B.** Any variance authorized is required to be entered in writing in the minutes of the Planning Commission and the reason for the departure from requirements of other provisions of these regulations must be stated.

**SECTION 5.2 CONDITIONS**

In granting variances, modifications, and approval for experimental subdivisions, the Planning Commission may require such conditions as will, in its judgments, secure substantially the objectives of the standards or requirements so varied, modified or approved, these may include, without being limited to: Personal, surety, performance, or maintenance bonds, affidavits, covenants, or other legal instruments.

## **SECTION VI**

### **SEVERABILITY**

If any section, subsection, clause or phrase of this regulation is for any reason held to be unconstitutional, void, invalid, the validity of the remaining portions of this regulation shall not be affected thereby, it being the intent of the Planning Commission in adopting these regulations that no portion hereof or provision of the regulations contained herein, shall become inoperative or failed by reason of the unconstitutionality or invalidity of any section, subsection, sentence, clause, phrase, or provisions of these regulations.