
Macon County Proposed Subdivision Regulations

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Prepared by
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ARTICLE 1
PURPOSE, POLICY, AND TITLE

SECTION 1-1. PURPOSE

The subdivision regulations set out herein have been adopted pursuant to authority granted by Code of Alabama 1975, Sec. §11-24-1(b) to establish procedures and standards for the design and development of proposed subdivisions or additions to existing subdivisions within the subdivision jurisdiction of Macon County, Alabama, as defined by Section 2-2 of these subdivision regulations. These regulations shall be applicable to the development of any subdivision within the county's subdivision jurisdiction, and shall include, at minimum, the minimum size of lots, the planning and construction of all public streets and roads, drainage structures, and proper placement of public utilities to be located in a subdivision. [Authority: Code of Alabama 1975, §11-24-1(b).] Additionally, unless waived by the Macon County Commission, these regulations shall also apply to the county's plat approval for developments within the territorial jurisdiction of a municipal planning commission. [Authority: Code of Alabama 1975, §11-52-30(b).]

It is not the purpose of these regulations to govern the acceptance of roads or streets for maintenance by the County Commission. Acceptance of roads or streets for maintenance by the Macon County Commission is outlined in Appendix V.

SECTION 1-2. POLICY

- a. It is hereby declared to be the policy of Macon County to consider the subdivision of land and the subsequent development of the subdivided land as subject to the control and regulation of the Macon County Commission pursuant to the authority granted to the County by Code of Alabama 1975, §11-24-1 et seq.
- b. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. Except as exempted by these regulations, no land shall be subdivided until proper provision has been made for drainage, sewage disposal, and streets, and approval has been granted in accordance with the procedures prescribed by Code of Alabama 1975, §11-24-1 et seq., and set out in these regulations.
- c. Prior to the actual sale, offering for sale, transfer, or lease of any lots for the purpose of creating, establishing, or modifying a subdivision, any owner or developer of land which lies within the area of the county's subdivision jurisdiction shall submit the Plat (11/99) of the proposed subdivision to the Macon County Commission for approval in accordance with the procedures prescribed by Code of Alabama 1975, §11-24-1 et seq., and as set out in these regulations.
- d. No owner or developer may proceed with construction improvements in a subdivision until the proposed plans and specifications have received Preliminary Plat Approval by the Macon County Commission.

- e. No owner or developer shall proceed with the actual sale, transfer or lease of lots, within a subdivision until such subdivision Final Plat has been granted approval entered and recorded in the office of the Probate Judge of Macon County in accordance with the procedures prescribed by Code of Alabama in writing on the Plat and signed by the County Engineer of Macon County and 1975, §11-24-1 et seq., and set out in these regulations.
- f. Any violations of this policy may subject the owner or developer to penalties as set out in Section 2-3 of these regulations and Code of Alabama 1975, §11-24-3.

SECTION 1-3. TITLE

The regulations shall hereafter be known, cited and referred to as the Subdivision Regulations of Macon County, Alabama.

SECTION 1-4. EFFECTIVE DATE

The regulations set out herein shall be in force and applicable to the development of all subdivisions in the subdivision jurisdiction of the Macon County Commission from and after the date of adoption by resolution. Subdivision regulations previously in place in Macon County are hereby repealed and rescinded.

Adopted by resolution this the _____ day of _____, 2008.

ARTICLE 2
AUTHORITY, JURISDICTION AND AMENDMENTS

SECTION 2-1. AUTHORITY

By Authority of Resolution of the Macon County Commission, adopted pursuant to the powers and jurisdiction granted by Code of Alabama 1975, §11-24-1 et seq., the Macon County Commission does hereby exercise the power and authority to review, approve, and disapprove the subdivision of land for all subdivisions within the subdivision jurisdiction of Macon County, Alabama. The Macon County Commission further does hereby exercise the authority to inspect any development within its subdivision jurisdiction to ensure that there are no violations of its rules and regulations and to charge fees for said inspection as set out in Article IV, Section 4-4-2 of these regulations and Code of Alabama 1975, §11-24-3.

SECTION 2-2. JURISDICTION

From and after the effective date set out in Section 1-4, these regulations shall govern each and every subdivision of land in all areas of the county as now or hereafter established outside the boundaries of municipal corporations. However, where a municipality now or in the future exercises subdivision control outside its municipal boundaries, such areas shall be subject to review and approval by the County Engineer who shall review for compliance with the County regulations. In such cases, the more strict requirements, whether of the municipality or County, shall apply. Furthermore, Alabama Legislative Act 2001-562, as amended, provides that a municipality may expressly request by resolution to have the jurisdiction of the Macon County Planning Commission extend into its corporate area.

SECTION 2-3. ENFORCEMENT

It shall be the duty of the County Planning and Zoning Enforcement Officer to enforce the regulations and notify the Macon County Commission of any violations or lack of compliance with these regulations.

2-3-1. INSPECTION OF PROPOSED SUBDIVISIONS

In its effort to monitor compliance with these regulations, the Macon County Commission may employ inspectors to ensure that these rules and regulations are not violated and that all plans and specifications of the owner or developer are not in conflict with these rules and regulations. The county may charge inspection fees as provided in Section 4-7 of these regulations and Code of Alabama 1975, §11-24-3, to be paid by the developers of the proposed subdivision.

2-3-2. VIOLATIONS/ PENALTIES

Pursuant to Code of Alabama 1975, §11-24-3, any owner or developer who violates any provision of Code of Alabama 1975, §11-24-1 et seq. or any of the regulations set out herein shall be subject to a fine of not less than two hundred and fifty dollars (\$250) but not to exceed one thousand dollars (\$1,000) per lot that has been sold, offered for sale, transferred, or leased to the public.

The Macon County Commission is authorized to bring a civil action in any court of competent jurisdiction to enjoin any action of an owner or developer which is in violation of the provisions of Code of Alabama 1975, §11-24-1 et seq., or any of the regulations set out herein. In such action, the County Commission shall be entitled to seek an injunction and may recover penalties as set out in these regulations and Code of Alabama 1975, §11-24-3.

SECTION 2-4. AMENDMENTS

The Macon County Planning Commission, with the approval of the Macon County Commission, may adopt amendments to increase the effectiveness of these regulations or expedite the approval of subdivision plats by majority vote of the County Commission.

ARTICLE 3 DEFINITIONS

SECTION 3-1. USAGE

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

A "person" includes a corporation, a partnership, and an incorporated association of persons such as a club; the word "lot" shall include the meanings of the words "plot" and "parcel;" "shall" is always mandatory and may is permissive; a "building" includes a "structure" and includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".

Any reference to a manual or publication refers to the current or latest edition. References will be encountered mainly in the Design Standards (Section 5-6) of these regulations.

Section 3-2. INTERPRETATION

The County Planning and Zoning Enforcement Officer is hereby authorized to make a final determination of any term used in these regulations. In case of a dispute over such interpretation, a written appeal of the County Planning and Zoning Enforcement Officer determination may be filed with the Macon County Planning Commission. Such appeal must be filed within 15 days of such determination.

SECTION 3-2. DEFINITION OF TERMS

3-2-1 ACCESS: Deeded portion of property or lot that provides travelway to a public city, county, or state road. All access must have fifty (50) foot minimum width from the city, county, or state road to the building site.

3-2-2 ADT (AVERAGE DAILY TRAFFIC): total volume of vehicles during a given time period, in whole days, as measured during a non-holiday weekday.

3-2-3 ALLEY: A public right-of-way primarily designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on some other street.

3-2-4 APPLICANT: The owner of land proposed to be subdivided or a person designated in writing by the legal owner as his or her representative.

3-2-5 ARTERIAL: A road or street which connects areas that produce a large amount of trip generation. Arterials have a dual function to move traffic and to provide access to land uses, particularly the high trip-generating commercial activities. Arterials shall be as shown on the most recent Highway Functional Classification Map approved by the Federal Highway

Administration and available for viewing at the office of the County code enforcement officer.

3-2-6 BLOCK: A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-of-way, shorelines of waterways or other boundary lines.

3-2-7 BUILDING: Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and includes any structure.

3-2-8 BUILDING SETBACK LINE: A line parallel to the property line over which no structure may be erected.

3-2-9 COLLECTOR STREET: A route whose primary function is to collect traffic from an area and move it to the arterial street system while also providing substantial service to abutting land use, and which typically does not have extensive continuity. Collectors shall be as shown on the most recent Highway Functional Classification Map approved by the Federal Highway Administration and available for viewing at the office of the County Engineer.

3-2-10 CONSTRUCTION PLANS: Plans detailing the design and requirements for the construction of public improvements. These plans shall detail such items as the location of all existing and proposed roads, plan and profiles of all roads, curve data, hydraulic data, etc. (See Section 4-4-9 for complete list of items required.)

3-2-11 CORNER LOT: A lot which occupies the interior angle at the intersection of street lines.

3-2-12 COUNTY: The County of Macon, Alabama.

3-2-13 COUNTY ADMINISTRATOR: The duly designated Administrator or Clerk of Macon County, Alabama.

3-2-14 COUNTY COMMISSION: The County Commission of the County of Macon, Alabama.

3-2-15 COUNTY ENGINEER: The duly designated Engineer of the County of Macon, Alabama.

3-2-16 COUNTY SPECIFICATIONS: All construction specifications which have been adopted by the County Commission or as required by the code enforcement officer and all utility departments.

3-2-17 CUL-DE-SAC: A minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

3-2-18 DAY: A calendar day.

3-2-19 DEDICATION: The transfer of property from private to public ownership.

3-2-20 DEVELOPER: The owner of land proposed to be subdivided or a person designated in writing by the legal owner as his or her representative.

3-2-21 DEVELOPMENT: Includes but is not limited to, the design work of lot layout the construction of drainage structures, the construction of buildings or public use areas, the planning and construction of public streets and public roads, and the placement of utilities.

3-2-22 DEPTH OF LOT: The mean horizontal distance between the front and rear lot lines.

3-2-23 DOUBLE FRONT LOT: A lot having frontage on two (2) non-intersecting streets as distinguished from a corner lot.

3-2-24 EASEMENT: A grant by the property owner of use, by the public, a corporation, or person(s) of a strip of land for specified purposes or as created by operation of law.

3-2-25 EXPRESSWAY OR FREEWAY: Facilities that accommodate a high volume of traffic through the prohibiting of ingress and egress except at controlled intervals. Freeways involve complete control of access while expressways permit at grade intersections at infrequent intervals. The expressway or freeway has only one function - to carry traffic. Interstate Highways within Macon County are designated as Freeways for the purposes of these regulations.

3-2-26 ENGINEERING PLAN (AS BUILT): A post construction record giving details of construction and locations of improvements as they were built or installed.

3-2-27 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 Macon County, Alabama.

3-2-28 FLOODPROOFING: Any combination of structural or nonstructural additions, changes, or adjustments which reduce or eliminate flood damage to real property, or improved real property, water supply and sanitary sewer facilities, electrical systems, and structures and their contents.

3-2-29 FLOODWAY: The stream channel and the portion of the adjacent floodplain which must be reserved solely for the passage of flood-waters in order to prevent an increase in upstream flood heights of more than one (1) foot above the predevelopment conditions. For the purpose of these regulations, floodways shall be defined as follows:

1. The floodways as identified in the Flood Insurance Study for Macon County, Alabama.

2. Along small streams and Watercourses: All lands lying within twenty-five (25) feet of the top of the bank of the channel (measured horizontally), unless the developer demonstrates to the satisfaction of the County code enforcement officer that a lesser distance (but not less than fifteen (15) feet) is adequate based on the watershed characteristics and probable storm runoff for the 100-year flood projections for the area.

3-2-30 LAND SUBJECT TO FLOODING: For the purpose of these regulations, land subject to flooding shall be defined as follows:

1. The lands identified as having special flood hazards by the Office of Federal Insurance and Hazard Mitigation. The lands identified as subject to inundation by the 100-year flood projections and all lands lying below the 100-year flood elevations as demonstrated by the maps and charts contained in the Flood Insurance Study for Macon County, Alabama, as prepared by the Federal Emergency Management Agency (FEMA), Office of Federal Insurance and Hazard Mitigation, and all subsequent revisions thereto, which are made a part of these regulations.
2. Along Small Streams and Watercourses: All lands lying within one hundred (100) feet of the top of the bank of the channel (measured horizontally) unless the developer demonstrates to the satisfaction of the County code enforcement officer that the property in question is free from the danger of inundation by the 100-year flood projections or that adequate remedial measures have been taken to allow the watercourse to safely accommodate the 100-year flood projections.

3-2-31 FLOOD, ONE HUNDRED (100) YEAR: A flood that has, on the average, a one (1) percent chance of being equaled or exceeded in any given year.

3-2-32 FLOOD, TEN (10) YEAR: A flood that has, on average, been equaled or exceeded at a frequency of once every ten (10) years.

3-2-33 FLOOD, TWENTY-FIVE YEAR: A flood that has on average been equaled or exceeded at a frequency of once every twenty-five (25) years.

3-2-34 HARDSHIP: An unusual situation on the part of an individual property owner which will not permit the full utilization of property. A hardship exists only when it is not self-created.

3-2-35 HEALTH DEPARTMENT: Alabama State Department of Public Health or Macon County Health Department.

3-2-36 IMMEDIATE FAMILY MEMBER: Includes the owner's husband, wife, children, brothers, sisters, parents, stepparents, step children, grandchildren, step grandchildren and grandparents or spouse's brothers, sisters, parents, stepparents, step children, grandchildren, step grandchildren and grandparents.

3-2-37 LICENSED ENGINEER: An engineer properly licensed and registered in the State of Alabama.

3-2-38 LICENSED LAND SURVEYOR: A land surveyor properly licensed and registered in the State of Alabama.

3-2-39 LOT: A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, lease or rental, or for building development.

3-2-40 MARGINAL ACCESS: A service road or other treatment used to provide adequate protection of properties in cases where an arterial runs through or near a subdivided area.

3-2-41 MAJOR SUBDIVISION: See Section 3-2-57(a), Subdivision Categories.

3-2-42 MINOR ROAD OR STREET: A route used to connect collector roads in a road system and service only the residents of that road.

3-2-43 MINOR SUBDIVISION: See Section 3-2-57(b), Subdivision Categories.

3-2-44 MONUMENT: A permanent object serving to indicate a limit or to mark a boundary.

3-2-45 OWNER: Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

3-2-46 OWNER'S ENGINEER: The engineer or land surveyor registered and in good standing with the State Board of Registration of Alabama who is the agent in his professional capacity of the owner of land which is proposed to be subdivided or which is in the process of being subdivided.

3-2-47 PERMANENT REFERENCE POINTS: As defined by The Minimum Technical Standards for Land Surveying in the State of Alabama.

3-2-48 PRELIMINARY PLAT: A tentative plan of the proposed subdivision as submitted to the County Engineer as detailed in Section 1-2(d) and Section 4-3 of these subdivision regulations.

3-2-49 PROBATE JUDGE: The Judge of Probate of Macon County, Alabama.

3-2-50 RESUBDIVISION: A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

3-2-51 ROAD OR STREET: A public right-of-way for vehicular traffic that affords the principal means of access to abutting property.

1. CITY ROAD: Public road maintained by the city.
2. COUNTY ROAD: Public road maintained by the county.
 - a. DEEDED: A road deeded to and accepted by the county.
 - b. DEDICATED: A road dedicated by plat to the county for public use.
 - c. PRESCRIPTIVE: An open, defined roadway in continuous use by the public as a highway without let or hindrance for a period of twenty (20) years. This is a factual determination taking into consideration things such as use by the public and as a mail or school bus route, maintenance by the county, length of use, etc. Prescriptive road is a county road even though it has not been constructed or formally accepted by the county.
3. PRIVATE ROAD: Road not owned or maintained by the city, county, or state whether or not it has public access.
4. STATE ROAD: Public road owned or maintained by the state of Alabama.

3-2-52 SETBACKS: A setback is synonymous to .building setback line.. See Section 3-2-8.

3-2-53 SINGLE TIER LOT: A lot which backs upon a street, a railroad, a physical barrier, or a residential or non-residential use, and to which access from the rear of the lot is usually prohibited.

3-2-54 SKETCH PLAN: The sketch plan is drawn prior to the preparation of the Preliminary Plans (or Final Plat in cases of minor subdivisions) to enable the applicant to save time and expense in reaching general agreement with the County Code Enforcement Officer as to the form of the plat and the objectives of these regulations.

3-2-55 SUBDIVIDER: Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2), directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot, parcel, site, unit, or plat in a subdivision, or who (3) is employed by or directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.

3-2-56 SUBDIVISION: The development and division of a lot, tract, or parcel of land into two (2) or more lots, plats, sites, or otherwise for the purpose of establishing or creating a subdivision through the sale or lease of lots, or building development. Statutory definition found in Code of Alabama 1975, §11-24-1(a)(4).

EXCLUSIONS: A subdivision shall not include any of the following:

- a. The construction or development of roads or buildings on private property to be used for agricultural purposes. See, Code of Alabama 1975, §11-24-1(a)(4);
- b. Property division during the probate process of family estates;
- c. Property division between immediate family members. See Code of Alabama 1975, §11-24-2(d);
- d. The public acquisition by purchase, donation, or condemnation of strips of land for the widening or opening of streets by the County Commission or easements for installation of public utilities.

3-2-57 SUBDIVISION CATEGORIES:

- a. SUBDIVISION, MAJOR : All subdivisions not classified as a MINOR SUBDIVISION, or meeting the requirements of OTHER SUBDIVISION.
- b. SUBDIVISION, MINOR: Any subdivision of more than 5 lots with parcels or lots fronting on an existing county road that, in the opinion of the County code enforcement officer, does not require any new street (or road) for adequate access to all lots, does not require the creation of any public improvements other than utility extensions, does not adversely affect the remainder of the parcel or adjoining property, and has existing drainage facilities adequate to serve the development.
- c. SUBDIVISION, OTHER. Any subdivision of no more than 5 lots with parcels or lots fronting on an existing county road that, in the opinion of the County Planning and Zoning Enforcement Officer, does not require any new street (or road) for adequate access to all lots, does not require the creation of any public improvements other than utility extensions, does not adversely affect the remainder of the parcel or adjoining property, and has existing drainage facilities adequate to serve the development. If an OWNER/DEVELOPER desires to resubdivide land subdivided under the definition of .OTHER SUBDIVISION. within one year of the original subdivision of land, the new subdivision will be considered a MINOR or MAJOR SUBDIVISION regardless of the number of lots created.

3-2-58 SUBDIVISION JURISDICTION: All areas outside the corporate limits of any municipality in Macon County.

3-2-59 SURETY: Any bond, certificate of deposit, irrevocable letter of credit, cashier check, or other acceptable guarantee as approved by the County Commission or their authorized agent.

3-2-60 VARIANCE: Permission to depart from the literal requirements of these subdivision regulations by virtue of unique hardship due to special circumstances regarding property to be developed. A waiver of the strictest letter of the regulations upon substantial compliance without sacrificing the spirit and purpose of the regulations.

3-2-61 WATERCOURSE: Any depression serving to give direction to a flow of water, having a bed and defined banks. The definition shall also include other generally or specifically designated areas where flooding may occur. The flow of water need not be on a continuous basis, but may be intermittent resulting from the surface runoff of precipitation.

3-2-62 WIDTH OF LOT: The mean horizontal distance between the two side lot lines.

**ARTICLE 4
APPROVAL OF SUBDIVISIONS**

SECTION 4-1. APPROVAL OF SUBDIVISIONS REQUIRED

From and after the effective date of these regulations, no subdivision plat of land within the subdivision jurisdiction, as defined in Article 3-2-56 of these regulations, shall be filed or recorded nor shall any lots be sold or leased until the plat has been submitted to and approved by the Macon County Planning Commission. The Probate Judge, upon receipt of a copy of these regulations, resolutions from the Macon County Planning Commission and the Macon County Commission, and a letter from the County Commission Chairman, shall not thereafter file or record a plat of a subdivision of land located within the County's subdivision jurisdiction, as defined herein, without the approval of such plat in accordance with these regulations. No street or road shall be accepted and maintained by the County, nor shall any utilities or county services be extended to the subdivision, unless and until the requirements set forth in these regulations have been complied with and the subdivision has been approved by the Macon County Planning Commission.

It is the responsibility of the developer to apply for subdivision approval unless the development meets one of the exclusions to these regulations pursuant to the definition of subdivision set out in Section 3-2-56. The developer shall be responsible for the construction, maintenance, and repair of all such development until and unless the roads are accepted by the county pursuant to the laws of this state.

SECTION 4-2. PRE-APPLICATION PROCEDURE

Whenever the subdivision of a tract of land is proposed within the jurisdiction of these regulations, the subdivider is urged to consult early and informally with the County Planning and Zoning Enforcement Officer. The subdivider may submit sketch plans and data showing existing conditions within the site and in its vicinity, and the proposed layout and development of the subdivision. The purpose of this pre-application review is to afford the subdivider the advice and assistance of the County Planning and Zoning Enforcement Officer in order to facilitate the subsequent preparations and approval of plans.

SECTION 4-3. MINOR SUBDIVISIONS

In accordance with the policy of the County Commission, no land may be offered for sale, sold or deeds transferred within any minor subdivision of land, as defined herein until the Final Plat has been approved by the County Planning Commission. If the proposed plat is for a Minor Subdivision as defined in Section 3-2-57(b), the subdivider shall comply with each of the following:

- (1). The final plat procedures set forth in Section 4-4-1.
- (2). The submission of Fees as set forth in Section 4-7.
- (3). Applicable Development Standards concerning easements as set forth in Article 5.
- (4). Required utility improvements set forth in Section 6-1-7.

4-3-1. MINOR SUBDIVISION APPLICATION PROCEDURE AND REQUIREMENTS:

The developer shall submit an application for Final Plat Approval to the County Planning and Zoning Enforcement Officer at least twenty (20) calendar days prior to a regularly scheduled meeting of the County Planning Commission. The application shall include each of the following:

- (1) A letter stating that the final plat is being submitted for approval;
- (2) An Application for Approval of the Final Plat (Appendix II);
- (3) The original tracing, and two (2) black or blueline prints of the plat; and
- (4) Check, payable to Macon County, to cover fees as set forth in Section 4-7 and Appendix VII.

4-3-2. FINAL PLAT REQUIREMENTS FOR MINOR SUBDIVISIONS

The Final Plat shall be prepared by a registered land surveyor and shall be clearly and legibly drawn at a convenient scale of not less than one (1) inch equals one hundred (100) feet. The Final Plat, as submitted for approval, shall be prepared on a suitable permanent mylar reproducible. The sheet size shall be of such size as is acceptable for filing at the Office of the Probate Judge.

The Final Plat shall show the following:

- (1) Name of subdivision, north point, scale, and location;
- (2) The relation of the land so platted to the Government Survey of Macon County. The .Point of beginning. as referred to in the written description shall be so indicated;
- (3) Sufficient data to determine readily and reproduce on the ground the location, bearing, and length of every street line, lot line, boundary line, and block line, whether straight or curved. This shall include the radius, central angle, point of tangency, tangent distance, and arcs and chords;
- (4) Name and addresses of owners of record;
- (5) Name and seal of licensed land surveyor;
- (6) Vicinity map showing location of the subdivision;
- (7) Names and addresses of the owners of land immediately adjoining the tract of land being subdivided, as their names appear on the plats in the County Tax Assessor or Revenue Commissioner's office.
- (8) Names and addresses of all utilities that provide service to the proposed subdivision;
- (9) The names and locations of adjoining subdivisions and streets, with reference to recorded plats by record name;
- (10) The location of easements, including widths, and purposes;
- (11) Parks, school sites, or other public open spaces, if any;
- (12) Location of any Special Flood Hazard Area boundaries and Flood Elevations noted as Zone A or Zone B according to the Flood Insurance Rate Maps of Macon County.

The following endorsements, dedications, and certificates shall be placed on the Final Plat (See Appendix I for sample certificates):

- (1) Licensed Land Surveyor's Certificate and Description of Land Platted;

- (2) Dedication by owner;
- (3) Notary's Acknowledgment of the Dedication Certificate referred to in Item 2;
- (4) A Certificate of Approval by all appropriate utilities;
- (5) A Certificate of Approval by the Macon County Engineer;
- (6) A Certificate of Approval by the Macon County Planning Commission;
- (7) A Certificate of Approval by the Macon County Health Department (if septic tanks and/or wells are necessary).

The above certificates shall be lettered or typed on the Final Plat in such a manner as to insure that said certificates will be legible on any prints made therefrom.

SECTION 4-4. PRELIMINARY PLAT FOR MAJOR SUBDIVISIONS

In accordance with the policy of the Macon County Commission, no land may be offered for sale, sold or deeds transferred within any subdivision of land, no utilities extended to, or connected with, any major subdivision of land, as defined herein until the Final Plat has been approved by the Macon County Planning Commission. If the plat is for a Major Subdivision as defined in Section 3-2-57(a), the subdivider shall comply with each of the following:

- (1). The preliminary and final plat procedures set forth in this Section, and;
- (2). The submission of fees as set forth in Section 4-7;
- (3). The development standards set out in Article 5;
- (4). The required improvements set out in Article 6.

4-4-1. PRELIMINARY PLAT APPLICATION PROCEDURE

Following the pre-application review of a proposed subdivision, if applicable, an application for Preliminary Plat approval must be submitted to the County Planning and Zoning Enforcement Officer at least thirty (30) calendar days prior to a regularly scheduled meeting of the County Planning Commission to allow compliance with Code of Alabama 1975, §11-24-2(b). The application shall include each of the following:

- (1) A letter stating that the preliminary plans are being submitted for review;
- (2) Application for Preliminary Plan Review (Appendix II);
- (3) At least six (6) copies of the Preliminary Plat of the proposed subdivision prepared in accordance with the requirements of the subdivision regulations;
- (4) Construction Plans for all required improvements;
- (5) A letter from the County or State Health Department stating that the general lot layout has been reviewed; and
- (6) Any applications for variances.
- (7) Check to cover review and inspection fees as set forth in Section 4-7.

4-4-2. CONSTRUCTION PLANS

At the time of submission of the Preliminary Plat, the applicant shall also submit construction plans for all required improvements to the County Planning and Zoning Enforcement Officer. All plans shall meet the minimum standards of design and general requirements for the construction of public improvements as set forth in these regulations.

4-4-3. PUBLIC HEARING

The Planning Commission shall hold a public hearing on the Preliminary Plat. Notice of such public hearing shall include posting of a sign on the property with the date, time and location of the public hearing and notices sent to the owner, subdivider or his agent and all adjoining landowners by registered mail as their names appear upon the plats in the Macon County Tax Assessor's Office. Such posting shall occur and notices shall be sent at least ten (10) days prior to the date of the public hearing. Any plat submitted to the Planning Commission shall contain the names and addresses of all persons to whom notices of a public hearing shall be sent. Any change or modification to a Preliminary Plat shall be submitted to the Planning Commission for approval and may be subject to public hearing, if deemed necessary by the Planning Commission.

4-4-4. PRELIMINARY APPROVAL

The Planning Commission shall approve, approve conditionally, or disapprove the Preliminary Plat within thirty (30) days following the public hearing. If approved conditionally, the conditions and reasons therefore shall be stated; and if necessary, the Planning Commission may require the subdivider to submit a revised Preliminary Plat. If any of the requirements are modified or waived, the reasons for such shall be specified. If the Planning Commission should disapprove the Preliminary Plat, the reasons for such actions shall be stated and, if possible, recommendations made on the basis of which the proposed subdivision would be approved. One (1) copy of the proposed Preliminary Plat shall be retained by the Planning Commission; and one (1) copy shall be returned to the applicant with the date of approval, conditional approval, or disapproval and the reasons therefore accompanying the plat within ten (10) days of the action of the Planning Commission. The approval of the Preliminary Plat shall not be deemed final acceptance but rather an expression of approval of the layout as submitted on the Preliminary Plat.

4-4-5. EFFECT OF APPROVAL

Approval of a Preliminary Plat shall not constitute acceptance of the plat of the proposed subdivision but shall be deemed only as an expression of approval of the plan submitted as a guide to preparation of the Final Plat, which Final Plat will be submitted for approval and recorded upon fulfillment of the requirements of these regulations and the conditions of tentative approval. Approval of a Preliminary Plat shall be effective for **eighteen (18) months**, unless, upon application by the subdivider, the Planning Commission grants an extension. If the Final Plat has not been submitted for final approval within this time limit, the Preliminary Plat shall again be filed for tentative approval; provided, however, that if a Final Plat of a part of the subdivision shall have been submitted and approved within the 18-month period, the tentative approval of the Preliminary Plat shall automatically be extended for a period of **six (6) months** from the date of approval of such Final Plat of part of the subdivision. If, however, the submittal of a Final Plat is delayed by hardship conditions, such as a natural disaster, the Planning Commission may extend the tentative approval for an additional 18 months. The applicant must request the 18-month extension as soon as feasible with documentation of the hardship. The Planning Commission will review the request at the next regular planning commission meeting and respond in writing to the request within ten (10) days.

At any time after the expiration of the initial 18-month period during which the Preliminary Plat approval is effective, the Planning Commission may notify the subdivider of changes it will require to meet new or changed conditions. A corrected Preliminary Plat with all conditions fulfilled shall be submitted prior to the construction or installation of any improvements.

Approval of the Preliminary Plat and Construction Plans and receipt of a permit from the Macon County Planning and Zoning Enforcement Officer shall constitute authorization, subject to obtaining the necessary State and Federal permits, that the subdivider may proceed with the construction of any improvements in accordance with applicable Town codes, regulations and specifications approved by the Administrative Official; and with the staking of the lots in preparation for the Final Plat.

4-4-6. ZONING REGULATIONS

Every plat shall conform to existing zoning regulations applicable at the time of final approval, except that any plat which has received Preliminary Plat approval shall be exempt from any subsequent amendments to the Zoning Ordinance rendering the plat non-conforming as to bulk or use, provided that Final Plat approval is obtained within the one-year period.

4-4-7. RESUBMISSION OF PRELIMINARY PLAT

The Macon County Planning Commission shall not consider, for a period of twelve (12) months, a Preliminary Plat which has been resubmitted for approval after Planning Commission disapproval, unless the applicant has complied with the Planning Commission's required changes and/or additions. Any resubmission shall be subject to a public hearing.

4-4-8. PRELIMINARY PLAT REQUIREMENTS

The Preliminary Plat shall be prepared by a licensed land surveyor or licensed engineer and shall be clearly and legibly drawn at a convenient scale of not less than one (1) inch equals one hundred (100) feet, and the sheets shall be numbered in sequence if more than one (1) sheet is used. The Preliminary Plat shall show the following:

- (1) Name and addresses of owners of record;
- (2) Proposed name of subdivision, date, north point, scale and location;
- (3) Name and seal of licensed land surveyor;
- (4) Vicinity map showing location of the subdivision;
- (5) Exact boundaries of the tract of land being subdivided, shown with bearings and distances;
- (6) Names and addresses of the owners of land immediately adjoining the tract of land being subdivided, as their names appear on the plats in the County Tax Assessor or Revenue Commissioner's office;
- (7) Names and addresses of all utilities that provide service to the proposed subdivision;
- (8) Wooded areas, marshes, and any other conditions affecting the site;

- (9) The location of existing streets, buildings, water courses, railroads, transmission lines, drainage structures, public utilities, jurisdiction lines, and any public utility easements on and adjacent to the tract being subdivided;
- (10) Proposed rights-of-way or easements including locations, widths, purposes, and street names; (Easement widths shall be as defined in Section 5-4 of these regulations)
- (11) Proposed lot lines with bearings and distances and lot and block numbers;
- (12) Proposed minimum building setback lines;
- (13) Proposed parks, school sites, or other public open spaces, if any;
- (14) Site data:
 - a. Acreage in total tract;
 - b. Smallest lot size;
 - c. Total number of lots;
 - d. Linear feet in streets;
- (15) Any area within or adjacent to the proposed subdivision subject to inundation by the 100-year flood projections as defined herein, or subject to periodic inundation by storm drainage overflow or ponding, shall be clearly shown and identified on the plat.
- (16) The following endorsements and certificates shall be placed on the Preliminary Plat (see Appendix I for sample certificates):
 - a. Certificate of Engineering Design by a Licensed Engineer
 - b. Certificate of Description of Land Platted by a Licensed Land Surveyor

4-4-9: CONSTRUCTION PLANS REQUIREMENTS

Construction Plans shall be prepared by a licensed engineer and shall be drawn at a scale of not less than one (1) inch equals fifty (50) feet. Map sheets shall be of the same size as the Preliminary Plat. The following construction plans shall be included:

- (1) Street plan containing the following information:
 - a. Location of all proposed and existing streets or rights-of-way in or adjacent to the subdivision;
 - b. Width of existing and proposed rights-of-way and easements;
 - c. Road names;
 - d. Plan and profile of all proposed streets, showing natural and finished grades drawn to a scale of not less than one (1) inch equals fifty (50) feet horizontal and one (1) inch equals five (5) feet vertical;
 - e. Cross sections of proposed streets at a minimum of 100. stations or as required by the County code enforcement officer;
 - f. Curve data for the centerline of each street: Delta, Tangent, and Radius;
 - g. Location of all required sidewalks and crosswalks;
- (2) Storm Drainage Plan containing the following information:
 - a. Location of proposed drainageways, streams, and ponds in the subdivision;
 - b. Topography at suitable contour intervals, as approved by the County code enforcement officer, to show existing & proposed drainage;

- c. Location, size, and invert elevations of proposed drainage structures including culverts, bridges, pipes, drop inlets, and top elevations of head walls, etc., showing details on Drainage Plan, including conduit schedule;
 - d. Show construction details of typical manholes, connections, and other drainage structures proposed;
 - e. Area of land contributing run-off to each drainage structure along with run-off calculations and applicable coefficients depending on method used [i.e. Rational method: runoff coefficient (C), rainfall intensity (I), catchment area (A), and the discharge at the structure (Q)]. Show calculated capacity of all drainage structures proposed. All drainage structures shall be designed using a twenty-five year design storm, minimum.
 - f. Location of easements and rights-of-way for drainageways and maintenance access thereof;
 - g. Typical cross-sections of each drainageway;
 - h. Direction of water flow throughout subdivision and compatibility with existing drainage.
 - i. Size of side drains required for each lot.
- (3) Sanitary Sewer Plan, if applicable, containing the location of all existing and proposed sewers, location of sewer laterals, location of each manhole and other sewage system appurtenances including lift stations, oxidation ponds, and treatment plants, and the plan and profile of the sewage system. Construction details of typical manholes, connections, and other proposed sewage structures should also be shown. Names of owners/operators of sewage disposal system should be shown on the Sanitary Sewer Plan.
- (4) Water Distribution Plan containing the location and size of water distribution system including pipes, valves, fittings, hydrants, high-pressure pumping equipment, etc.
- (5) Electric Distribution Plan containing the location of all poles or subsurface facilities as necessary to serve each lot or parcel of land within the subdivision.
- (6) Gas Distribution Plan, if applicable, containing the location of all above ground and subsurface facilities as necessary to serve each lot or parcel of land in the subdivision. All construction plans shall meet the minimum standards of design and general requirements for the construction of public improvements as set forth in these regulations. These plans shall be drawn at a horizontal scale not less than one (1) inch equals fifty (50) feet. Sheet size shall be 24. x 36. or less. Construction plans shall be prepared and sealed by a Licensed Engineer.

SECTION 4-5. FINAL PLAT FOR MAJOR SUBDIVISIONS

In accordance with the policy of the County Commission, no deeds may be transferred within any major subdivision of land, as defined herein until the Final Plat has been approved by the

County Planning Commission. The developer shall submit an application for Final Plat Approval to the Macon County Planning and Zoning Enforcement Officer at least twenty (20) calendar days prior to a regularly scheduled meeting of the County Planning Commission. The application shall include each of the following:

4-5-1. APPLICATION PROCEDURE AND REQUIREMENTS

Following the review of the Preliminary Plans and approval by the County Planning Commission, the applicant, if he wishes to proceed with the subdivision, shall file with the County Planning and Zoning Enforcement Officer an application for approval of the Final Plat (Appendix II). The application shall:

- (1) Be accompanied by a letter stating that the final plat is being submitted for approval;
- (2) Be accompanied by the original tracing, and two (2) black or blueline prints of the plat;
- (3) Comply in all respects with the Preliminary Plans, as reviewed, except for minor modifications not altering the design of the subdivision;
- (4) Be accompanied by an appropriate guarantee of completion of improvements in accordance with Article 7, in a form meeting the county's requirements, and in an amount sufficient to guarantee the actual construction and installation of such approved public streets, roads, drainage structures and public utilities. A surety bond will be required in all cases where construction and installation of the required improvements have not been completed.

4-5-2. FINAL PLAT APPROVAL

After the County Planning and Zoning Enforcement Officer or his or her designee has reviewed the Final Plat, the County Planning and Zoning Enforcement Officer shall certify to the County Planning Commission whether the plat meets the county's regulations.

4-5-3. SIGNING AND RECORDING OF FINAL PLAT

(1) Signing of Plat

All plats shall be approved by the County Planning Commission prior to recording in the Probate Office. The Chairman shall sign the original tracing. The original tracing will be returned to the applicant's engineer.

(2) Recording of Plat

Once a plat has been approved by the County Planning Commission and such approval evidenced by the Chairman's signature on the plat, the plat will be returned to the applicant. The Final Plan shall be recorded by the developer in the Office of Probate of Macon County within thirty (30) days following approval by the Commission. After recording of the plat in the Office of the Probate Judge, the owner or developer, or the owner's or developer's surveyor or engineer, must provide the County Planning and Zoning Enforcement Officer with four (4) copies of the recorded plat, including one (1) 11" x 17" size copy of the plat. If the plat is not recorded in the Office of the Judge of Probate within this period, the plat is null and

void, and the acceptance of the plat by the Commission will be deemed to have expired.

4-5-4. FINAL PLAT REQUIREMENTS

The Final Plat shall be prepared by a registered land surveyor or licensed engineer and shall be clearly and legibly drawn at a convenient scale of not less than one (1) inch equals one hundred (100) feet. The Final Plat, as submitted for approval, shall be prepared on a suitable permanent mylar reproducible. The sheet size shall be of such size as is acceptable for filing at the Office of the Probate Judge.

The Final Plat shall show the following:

- (1) Name of subdivision, north point, scale, and location;
- (2) The relation of the land so platted to the Government Survey of Macon County. The Point of beginning, as referred to in the written description shall be so indicated;
- (3) Sufficient data to determine readily and reproduce on the ground the location, bearing, and length of every street line, lot line, boundary line, and block line, whether straight or curved. This shall include the radius, central angle, point of tangency, tangent distance, and arcs and chords;
- (4) The names and locations of adjoining subdivisions and streets, with reference to recorded plats by record name;
- (5) Streets and alleys, rights-of-way, and street numbers;
- (6) The location of easements, including location, widths, and purposes;
- (7) Lot lines and lot and block numbers;
- (8) Parks, school sites, or other public open spaces, if any;
- (9) Location of any Special Flood Hazard Area boundaries and Flood Elevations noted as Zone A or Zone B according to the Flood Insurance Rate Maps of Macon County.

The following endorsements, dedications, and certificates shall be placed on the Final Plat (See Appendix I for sample certificates):

- (1) Licensed Land Surveyor's Certificate and Description of Land Platted;
- (2) Dedication by owner;
- (3) A notary's Acknowledgment of the Dedication Certificate referred to in .2.;
- (4) A Certificate of Approval by all appropriate utilities;
- (5) A Certificate of Approval by the County Engineer of Macon County;
- (6) A Certificate of Approval by the Director of the Macon County Emergency Management Office;
- (7) A Certificate of Approval by the Macon County Health Department (if septic tanks and/or wells are necessary)
- (8) A Certificate of Approval by the Macon County Planning Commission;
- (9) Recording of Plat in the Macon County Probate Office.

The above certificates shall be lettered or typed on the Final Plat in such a manner as to insure that said certificates will be legible on any prints made therefrom. All endorsements, dedications and certificates shall be obtained prior to obtaining the Certificate of Approval of

the Macon County Planning Commission. Following the approval signatures of the Macon County Planning Commission, the Final Plat may be taken to the Macon County Probate Office for recording.

SECTION 4-6. OTHER SUBDIVISIONS

If the subdivision meets the requirements set out in Section 3-2-57(c) no specific approval from the County Commission will be required. Subdivisions meeting the requirement of this section shall comply with the Right-of-Way width requirements accordance with Section 5-6-1 on the subdivided lots.

SECTION 4-7. FEES

The developer shall pay to the Macon County Commission a fee for review of the Subdivision Plats and Inspection of the Required Improvements in the amounts shown in the Macon County Schedule of Fees, which is included in Appendix VII.

ARTICLE 5 DEVELOPMENT STANDARDS

SECTION 5-1. MINIMUM STANDARDS

In addition to the requirements established herein, the following minimum requirements are established for all subdivisions:

- (1) All applicable statutory provisions;
- (2) The special requirements and rules of the Macon County Health Department;
- (3) The rules and standards of the Alabama Department of Transportation if the subdivision or any lot contained therein abuts a state highway;
- (4) The rules and standards of the Alabama Department of Environmental Management (ADEM) and any other appropriate state or federal agencies;
- (5) The standards and regulations adopted by all boards, commissions, agencies, and officials of Macon County;
- (6) The standards, specifications and rules of appropriate utility companies.

Subdivision approval may be withheld if the subdivision is not in conformity with the above guidelines or the policy and purpose of these regulations as established in Article 1 of these regulations.

SECTION 5-2. GENERAL REQUIREMENTS

5-2-1. CHARACTER OF THE LAND

Land within any floodway as defined in Section 3-2-29 shall not be platted for residential occupancy or building sites, but may be deeded. Land outside the floodway but subject to flood may be platted for residential occupancy provided each lot contains a building site that may reasonably lend itself to construction of a floor level above flood elevation, or for such other uses which will not increase the danger to health, life, and property. Fill may not be used to raise land in the floodway. In other areas subject to flood, fill may be used providing the proposed fill does not restrict the flow of water and unduly increase flood heights.

5-2-2. SUBDIVISION NAME

The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The County Planning and Zoning Enforcement Officer shall have final authority to reject the name of the subdivision. Such rejection shall be made at the Preliminary Plat Review stage.

5-2-3. WATERBODIES AND WATERCOURSES

If a tract being subdivided contains a water body, or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the water body among adjacent lots. The County Planning Commission may approve an alternative plan provided the ownership of and responsibility for, safe maintenance of the water body is so placed that it will not become a County responsibility. No public roadways will be approved which provide access across

dams nor will any part of a lake dam be allowed on the public road right-of-way, unless suitable safety measures are provided.

SECTION 5-3. ROAD OR STREET PLAN

The arrangement, character, extent, location, and grade of all roads shall be laid out according to good land planning principles and shall be integrated with all existing and planned roads. Consideration for the planning of new roads shall include topographical conditions, orientating to vistas, public convenience and safety, and the proposed uses of land to be served by them. All lots must have access as defined in Section 3-2-1 to a city, county, or state road.

5-3-1. CONTINUATION OF ADJOINING ROAD SYSTEM

Proposed new roads shall extend existing roads or their projections at the same or greater width, but in no case less than the minimum required width, specifically including extension of curb and gutter, unless for reasons of topography or design, the County Planning Commission deems variations necessary.

5-3-2. MARGINAL ACCESS ROADS

Where, in the opinion of the County Planning Commission, development which abuts or has included within the proposed subdivided area any road classified as an Arterial the County Planning Commission may require a marginal access road or other treatment which may be necessary to provide for the adequate protection of properties, and to afford separation of through and local traffic.

5-3-3. ADDITIONAL WIDTH ON EXISTING ROADS:

Subdivisions that adjoin existing streets with inadequate right-of-way shall dedicate additional right-of-way to meet the minimum street width requirements.

- (1) The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing street.
- (2) When the subdivision is located on only one side of an existing street, a minimum of one-half (1/2) of the required right-of-way, measured from the centerline of the existing street, shall be provided.

5-3-4. ROAD NAMES

Proposed roads, which are obviously in alignment with others existing and named, shall bear the assigned name of the existing roads. In no case shall the name of proposed streets duplicate or be phonetically similar to existing street names, irrespective of the use of the suffix, street, avenue, boulevard, drive, place, court, etc. Road names should be cleared through the Macon County Emergency Management Office (E-911).

5-3-5. VACATING A ROAD OR EASEMENT

Vacation of a road or easement shall be in accordance with the procedures set out in Code of Alabama 1975, § 23-4-1 et seq., if by the county, and Code of Alabama 1975, § 23-4-20 et seq., if by abutting land owners.

5-3-6. FRONTAGE ON IMPROVED ROADS

No subdivision shall be approved unless the area to be subdivided shall have frontage on, and access from:

- (1) an existing state, county or city road or
- (2) public road shown upon an approved plat recorded in the Macon County Probate Judge's office. Such street or highway must be suitably improved as required by the rules, regulations, specifications, or orders, or be secured by an improvement guarantee required under these subdivision regulations, with the width and right-of-way required by these subdivision regulations. Individual lots shall have a minimum of fifty (50) feet frontage on an existing or public road as defined above.

5-3-7. TOPOGRAPHY AND ARRANGEMENT

- (1) All proposed roads shall be properly integrated with the existing system of roads.
- (2) Minor roads as defined in Section 3-2-42 shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.
- (3) The rigid rectangular gridiron street pattern need not necessarily be adhered to, and the use of curvilinear streets, cul-de-sacs, or U-shaped roads shall be encouraged where such use will result in a more desirable layout.
- (4) Proposed roads shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the County Planning Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision or with the existing layout of the most advantageous future development of adjacent tracts.
- (5) In business and industrial developments, the roads and other accessways shall be planned in connection with the grouping of buildings, location of rail and port facilities, and the provision of alleys, truck loading and maneuvering area, and walks and parking areas so as to minimize conflict of movement among the various types of traffic, including pedestrian.

5-3-8. ACCESS TO ADJACENT PROPERTIES

Land abutting a proposed subdivision shall not be left land-locked by such proposed subdivision. Private reserve strips controlling access to streets shall be prohibited.

5-3-9. EXCESS RIGHT-OF-WAY OR EASEMENTS

Right-of-way or easement widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three horizontal to one vertical.

5-3-10. RAILROADS, ARTERIALS, AND MAJOR THOROUGHFARES

Railroad rights-of-way, major highways, and expressways where so located as to affect the subdivision of adjoining lands shall be treated as follows:

- (1) In residential districts, a buffer strip at least ten (10) feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way, Arterial, or Interstate Highway. This strip shall be part of the platted lots and shall be designated on the plat with the statement, "This strip is reserved for screening. The placement of structures hereon is Prohibited";
- (2) In areas proposed for business, commercial, or industrial uses, the nearest road extending parallel or approximately parallel to the railroad shall, wherever practical, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites;
- (3) Roads parallel to the railroad when intersecting a road that crosses the railroad at grade shall, to the extent practical, be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

5-3-11. LOTS

Residential lots shall comply with the following requirements:

- (1) The minimum lot size where public water and sewer are not provided shall be as required by the Macon County Health Department.
- (2) The subdivision plat shall provide each lot with satisfactory access as defined in Section 5-3-6;
- (3) Where land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future roads and logical further resubdivision;
- (4) Depth and width of properties reserved for commercial and industrial purposes shall be adequate to provide for off-road parking and loading for the use contemplated;
- (5) Double frontage lots shall be avoided, except where essential to provide separation of residential development from traffic arteries, or to overcome specific disadvantages to topography and orientation;
- (6) Each lot in a subdivision shall contain a flood-free building site a minimum of one (1) foot above the floor elevation of the 100-year flood projection as defined in these regulations, and outside the limits of any existing easement or the building setback lines.

5-3-12. BLOCKS

- (1) Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to expressways, arterials, railroads, or waterways where single-tier lots are required to separate residential development from through vehicular traffic or non-residential uses;
- (2) Blocks shall not exceed twelve hundred (1200) feet nor be less than four hundred (400) feet in length except as approved by the County Planning Commission as a variance;
- (3) In long blocks, the County Planning and Zoning Enforcement Officer and/or the County Engineer may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic.
- (4) Blocks designed for industrial uses shall be of such length and width as may be determined suitable by the County Planning and Zoning Enforcement Officer and/or the County Engineer for prospective use.

5-3-13. CUL-DE-SACS

Permanent dead-end streets shall not exceed eight hundred (800) feet in length and shall be provided with a turnaround having a roadway diameter of at least sixty (60) feet and a right-of-way diameter of at least one hundred (100) feet.

- (1) A temporary turnaround is required for all streets that are not intended to be permanent dead end streets, but instead will eventually be extended or connect to another street.
- (2) A temporary dead end street shall not be longer than 800 feet. It shall also have a temporary turnaround with a diameter of at least 60 feet and be constructed of a material approved by the County Engineer, such as a standard road base.
- (3) If the subsequent phase of a development that contains a temporary dead end street is not begun within 18 months, then the temporary turnaround must be constructed as a permanent cul-de-sac.

5-4 EASEMENTS

5-4-1. UTILITY EASEMENTS

Utility easements centered on all rear and/or side lot lines shall be provided for utilities (private and public), if required by the Utility serving the subdivision. Such easements shall be of the width required by the servicing utility. Proper coordination shall be established between the applicant and the applicable utility companies for the establishment of utility easements.

5-4-2. DRAINAGE EASEMENTS

- (1) Drainage easements will be required wherever a ditch, swale, pipe or culvert is required by the Storm Drainage Plan to carry storm-water runoff or otherwise where necessary in the opinion of the County Planning and Zoning Enforcement Officer and/or the County Engineer. The width of such drainage

easements shall be sufficient to contain the channel and maintenance way for the drainage-way and in no case shall be less than fifteen (15) feet wide.

- (2) Drainage easements beyond the boundaries of the proposed subdivision may be required if deemed necessary by the County Planning and Zoning Enforcement Officer and/or County Engineer for proper maintenance of the drainage-way serving the subdivision. Off-site easements will be required wherever improvements must be made beyond the boundaries of the subdivision in order to properly drain the subdivision. The width of such drainage easements shall be sufficient to contain the ultimate channel and maintenance way for the drainage-way and in no case shall be less than fifteen (15) feet wide.

SECTION 5-5. DRAINAGE AND INUNDATION

- (1) The Storm Drainage Plan shall be completed prior to the development of the other utility plans. Engineering considerations shall give preferential treatment to these gravity flow improvements, as opposed to other utilities and improvements. Off-premises improvements shall be made if required to handle the runoff of the subdivision into a natural stream channel.
- (2) Land within any designated floodway shall not be platted for residential occupancy or building sites. Fill may not be used to raise land within the floodway. Other land subject to flooding may be platted only if filled to such height as will secure a flood-free building site as defined in Section 5-3-11(6)
- (3) Lakes, ponds, and similar areas will not be accepted by the County Commission. The Developer shall make appropriate arrangements for the maintenance of said areas and the ownership of said areas shall be clearly noted on the plat.

SECTION 5-6. DESIGN STANDARDS

Regardless of whether or not the developer intends to seek county acceptance of roads in the subdivision, the following design standards shall be considered minimum requirements for all subdivisions.

5-6-1. RIGHT-OF-WAY WIDTHS

Minimum street right-of-way widths shall not be less than the following:

Collector Streets	80 ft
Minor Streets with curb and gutter	50 ft
Minor Streets with open ditches	60 ft

Where a subdivision borders an existing road with a right-of-way less than that specified in these regulations, the applicant shall be required to dedicate such additional right-of-way areas as are required for widening or realignment of such roads. The applicant shall dedicate existing substandard roads to the full width as required by these subdivision regulations.

5-6-2. PAVEMENT & SHOULDER WIDTHS

All roads which do not utilize curb and gutter shall have a minimum pavement width of twenty (20) feet with a minimum shoulder width of three (3) feet. If curb and gutter is used,

the pavement width must be at least twenty-two (22) feet. The minimum distance between the back of the curbs on each side of the street must be at least twenty-eight (28) feet. A minimum of two (2) feet behind the curb must be graded to a level surface extending from the back of the curb. (See Appendix VI.)

5-6-3. GEOMETRIC DESIGN

(1) TYPICAL SECTIONS

Standard Section (Ditch) - See Appendix VI

Curb Section- See Appendix VI

(2) ROADS WITH LESS THAN 2,500 ADT

All streets shall be designed to conform to the Alabama Department of Transportation "County Road Design Policy", latest edition, Design Criteria for New and Reconstructed Roadways and Bridges with less than 2,500 ADT". Developers are encouraged, where practical, to design to a 45 mph design speed. Design speeds as low as 30 mph may be approved. In areas where these regulations conflict with the above referenced publication, the stricter of the two shall control.

(3) ROADS WITH GREATER THAN OR EQUAL TO 2,500 ADT

All streets shall be designed to conform to AASHTO's "A Policy on Geometric Design of Highways and Streets", latest edition. A design speed of 45 mph will be required. In areas where these regulations conflict with the above referenced publication, the stricter of the two shall control.

Any specifications for geometric design not covered by these regulations shall be governed by the applicable publication listed above.

(2) GRADES

Minimum and maximum street grades shall be as follows:

Minimum 0.5%

Maximum 8.0%

(3) HORIZONTAL CURVES

Where centerline deflection angles occur, a circular curve shall be introduced, having a radius of not less than one hundred ten (110) feet.

(4) TANGENTS

There shall be a tangent of not less than one hundred (100) feet provided between reverse curves on all streets.

(5) VERTICAL CURVES

All changes in grades shall be connected by vertical curves to provide a minimum sight distance of one hundred fifty (150) feet measured between a

height of eye of three and three-fourths (3.75) feet and height of object of one-half (0.5) feet.

- (6) The minimum design speed for all roadway elements shall be twenty-five (25) miles per hour (mph).

5-6-4. INTERSECTIONS

Road intersections shall be designed as follows:

- (1) Adequate sight distance shall be provided at all intersections. Corner sight distance is measured from a point on the minor road fifteen (15) feet from the edge of the major road pavement and measured from an eye height of three and one half (3.5) feet on the minor road to an object height of four and one-fourth (4.25) feet on the major road.

Major Road Speed Limit	Corner Intersection Sight Distance
25 mph	260 ft
35 mph	355 ft
45 mph	460 ft
55 mph	570 ft

- (2) Roads shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) new roads at an angle of less than seventy-five (75) degrees shall not be acceptable. An oblique road should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet therefrom. Not more than two (2) roads shall intersect at any one point unless specifically approved by the County Engineer;
- (3) Proposed new intersections along one side of an existing road shall, wherever practical, coincide with any existing intersections on the opposite side of such street. Road jogs with centerline offsets of less than 125 feet shall not be permitted. Where minor roads intersect collectors or arterials, their alignment shall be continuous. Intersections of arterials shall be at least eight hundred (800) feet apart. Where a road intersects a state highway, the design standards of the Alabama Department of Transportation shall apply;
- (4) Minimum curb radius at the intersection of two (2) minor roads shall be at least twenty (20) feet; and minimum curb radius at an intersection involving a collector road shall be at least twenty-five (25) feet;
- (5) Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a five percent (5%) grade at a distance of twenty (20) feet, measured from the nearest edge line of pavement of the intersecting road;

- (6) The cross-slopes on all roads, including intersections, shall be five percent (5%) or less;
- (7) Property lines at road intersections shall be rounded with a minimum radius of twenty (20) feet.

5-6-5. STORM DRAINAGE

Storm drainage system design shall be based on a minimum twenty-five (25) year design storm for all curbs, pipes, culverts, headwalls, and ditches and any other drainage element. All crossdrains shall have sufficient length for required typical section (pavement & shoulders). Minimum diameter of cross drain pipes shall be fifteen (15) inches. Side-drain (driveway) pipe sizes for each lot shall be determined by the Owner's Engineer and shown on the Storm Drainage Plan. The ditch bottoms shall be protected by grassing, rip-rap, concrete or other means as deemed appropriate by the engineer.

5-6-6. UTILITIES

The applicant is encouraged to place all utilities underground. Utility design shall be as approved by the Utility involved. All utility main lines shall be installed on the backside of the ditches or a minimum of two (2) feet behind the curb.

**ARTICLE 6
REQUIRED IMPROVEMENTS**

SECTION 6-1. IMPROVEMENTS

Final Plat approval shall be granted only after the installation of the improvements and utilities hereinafter designated and satisfactorily completed in accordance with Macon County construction specifications and standards or the posting of a surety bond with sufficient surety to secure the County the actual construction and installation of such improvements and utilities.

It is the responsibility of the developer to communicate and schedule with the County Planning and Zoning Enforcement Officer and the County Engineer prior to initiating any and all steps of the road building process. The County Engineer shall be consulted at the beginning and throughout the process and involved in determining all specification testing. In addition to other penalties prescribed by law and by these regulations, any road construction performed without the knowledge and inspection of the County Planning and Zoning Enforcement Officer will not be considered for acceptance by the County Commission. Refer to Section 6-1-1(1) for notification of work requirements.

6-1-1. ROAD CONSTRUCTION REQUIREMENTS

Construction of all roads shall meet the following minimum requirements and conform to the Alabama Department of Transportation's Standard Specifications for Highway Construction.

Best Management Practices for erosion control shall be used throughout construction and development. The developer shall be responsible for all erosion control in accordance with ADEM regulations and for securing any required permits by ADEM.

- (1) Notification of Work: It shall be the duty and responsibility of the developer or contractor to give notice to the County Planning and Zoning Enforcement Officer or his authorized agent, one working day prior to starting any phase of construction. This includes all phases of construction, clearing, grading, drainage, gutters, inlets, base, surfacing and any work that pertains to the street, road or development. FAILURE TO NOTIFY AS SPECIFIED MAY BE GROUNDS FOR NONACCEPTANCE.
- (2) Testing: The County Engineer shall determine, at the discretion of the County Engineer, which tests shall be scheduled and performed and shall notify County Planning and Zoning Enforcement Officer and the developer.

All testing shall be charged/billed to the developer and shall be conducted by an independent testing laboratory approved by the County Engineer. Copies of all test reports are to be provided to the County Planning and Zoning Enforcement Officer and the County Engineer before additional construction occurs.

The tests normally consist of, but are not limited to, gradation, moisture, compaction, and atterburg limits of road building materials and asphalt analysis tests.

- (3) Clearing and Grubbing: All roads shall be graded to their full right-of-way width. All areas shall be cleared of all vegetation, trees, stumps, large rocks and other objectionable or unsuitable material prior to grading or filling unless otherwise approved, in writing, by the County Planning and Zoning Enforcement Officer;
- (4) Subgrade: The subgrade shall be compacted and properly shaped prior to the placing of base materials. The top six (6) inches of the roadbed shall be modified, with the work being performed similar to Section 230 Roadbed Processing, of the Alabama Department of Transportation Standard Specifications for Highway Construction.. It shall be full width of regular section and extend two (2) feet outside of curb and gutter and/or valley gutter sections. Both sections are twenty-eight (28) feet in width. The embankment or subgrade shall be inspected by proofrolling, under the supervision of the County Engineer or his/her designee, with a fully loaded tandem axle dump truck to check for soft or yielding areas. Any unsuitable materials shall be removed and replaced with a suitable material, compacted, and proof-rolled a second time if required by the County Engineer.
- (5) Base: Base course shall meet the requirements for crushed aggregate as set forth in Section 301 of the Alabama Department of Transportation Standard Specifications for Highway Construction. Base course thicknesses and widths shall be as shown on the Typical Section in Appendix VI of these regulations. The base course shall be inspected by proof-rolling in the same manner as the subgrade noted above.
- (6) Roadway Base and Pavement: All roads and/or streets shall be paved and comply with the following:
 - a. The minimum pavement widths shall be as outlined in Section 5-6-2 and shown on the Typical Section in Appendix VI of these regulations.
 - b. The minimum base course shall be 6" compiled thickness of crushed aggregate, Type ALDOT 25 A or B full roadway width as shown on the typical section on page 106. As determined by the County Engineer, where existing soil types dictates the sub base may require lime treatment and/or additional material will be required.
 - c. Minimum requirements for the bituminous pavement shall be three hundred thirty pounds per square yard (330 LBS/ SY) of Bituminous Concrete Plant Mix, type 424 applied as shown on the typical section in Appendix VI. The mix shall be approved by the County Engineer and be covered in the latest memorandum recommendation from the office of the ALDOT County Transportation Engineer or as specified by the ALDOT Standard Specifications for Highway Construction, latest edition.

- (7) Storm Drainage: An adequate storm drainage system based on a minimum twenty-five (25) year design storm including curb, pipes, culverts, headwalls, flumes and ditches shall be provided for the drainage of surface water. All crossdrains shall have sufficient length for required typical section and shall be installed according to ALDOT specifications. Minimum diameter of cross drain pipes shall be fifteen (15) inches. All cross drains and other storm drainage pipes on County right-of-way shall be concrete pipe and shall meet or exceed the current ALDOT specifications. Ditches and other structures shall be designed to accommodate the design storm. Ditch bottoms shall be protected by grassing, riprap, concrete or other means as deemed appropriate by the County Engineer. All pipe ends on existing or proposed right-of-ways to be metered to fit slope and have slope-paving or rip-rap end treatments.
- (8) Installation of Utilities: After grading is completed and approved by the County Engineer and before any roadbed processing of the subgrade is performed all of the underground utilities within the roadway prism shall be installed completely and approved by the County Engineer throughout the length of the street and across the section. Once pavement is placed, it shall not be open cut except with written permission of the County Engineer. Any utility desiring to cross the road shall go over the road or dry bore under the road. All water lines located under pavement shall be encased. Backfill placed in utility trenches shall be crushed stone and shall be compacted as covered in Section 6-1-1 (5) of these regulations. All underground utilities shall be installed prior to proof-rolling the subgrade as described in Section 6-1-1 (4).
- (9) Topsoil and Grassing: When all construction is completed, all slopes and shoulders shall be covered with a sufficient amount of topsoil and shall have a stand of permanent grass to prevent erosion, either by sprigging or seeding.

6-1-2. CURBS AND GUTTERS

Curb and gutter is required on all new minor streets that have a 50 foot right-of-way and on all new streets and roads that are a continuation of an existing roadway that has curb and gutter in place. The purposes for requiring curbs and/or gutters are drainage control, and reduction of maintenance cost. Where curbs and gutter are required, a twenty-four (24) inch (24') gutter with six inch (6") curb will meet minimum standards. Valley gutter shall be used only at driveway entrances where locations are known in advance. Where curb and gutter is not required by these regulations, but is installed on a voluntary basis, then the installation of the voluntary curb and gutter shall also be required to meet the standards of these regulations.

6-1-3. WATER SYSTEM

The design and specifications of the water distribution system shall be in accordance with the policies and requirements of the public water utility serving the subdivision. If a well is required for each lot, the location, construction, and use of such a well shall meet Macon County Health Department specifications.

6-1-4. DRIVEWAYS

Where open-ditch construction is used, developers or owners will not be able to install side drain pipes in the ditch section except to provide a driveway access to each lot. Driveway side drains shall be a maximum of forty (40) feet long. No more than two (2) drive side drains will be allowed per lot. Where a lot has two (2) drive side drains, they must be separated by at least thirty (30) feet.

6-1-5. SANITARY SEWERS

The applicant shall install sanitary sewer facilities in a manner prescribed by the sewer utility construction standards and specifications. Sanitary sewers shall be provided where a public sanitary sewerage system is reasonably accessible as determined by the County Planning and Zoning Enforcement Officer and the appropriate sewer utility. Individual disposal systems shall be used in instances where no public sanitary sewerage system is available providing approval is received from the State and/or Macon County Health Department.

6-1-6. UTILITIES

Utility construction and installation shall be in accordance with the requirements of the Utility company serving the area. Proper coordination shall be established between the applicant and the applicable utility companies for the establishment of utility easements. All utility facilities existing and proposed throughout the subdivision shall be shown on the Preliminary Plat.

6-1-7. SIDEWALKS

Adequate facilities for pedestrian circulation are important for public safety and convenience. They also can provide an attractive aesthetic environment in residential subdivisions, especially when they are located in or adjacent to a commercial or institutional development setting. Therefore, the Macon County Planning Commission may require subdividers to provide sidewalks or other pedestrian facilities within proposed subdivisions.

- (1) Where Sidewalks Are Required:
 - a. Where the proposed subdivision contains at least six (6) lots.
 - b. Where the lots in the proposed subdivision are five (5) acres or less in size.
 - c. Where the external boundaries of the proposed subdivision lie within a one (1) mile radius of any public school, park or other major public use facility.
 - d. Where the external boundaries of the proposed subdivision lie within a one-half (1/2) mile radius of any planned group of commercial or industrial development.
 - e. Where the proposed subdivision adjoins or is otherwise served by an existing street or highway that provides public sidewalks or other pedestrian facilities.
 - f. Where the proposed subdivision includes a mix of land uses or includes common recreational improvements.

- a. Four (4) feet for all sidewalks in single family residential subdivisions.
 - b. Five (5) feet for all sidewalks in multi-family or group housing developments.
 - c. Eight (8) feet for sidewalks in non-residential development or adjacent to non-residential uses in mixed use developments.
 - d. A minimum of five (5) feet for all alternative pedestrian facilities or greater widths as required by the County Planning Commission depending on the planned volume of residents to be served.
- (5) Distance from Right of Way Line: When required by the County Planning Commission, sidewalks shall be located not less than one (1) foot from private property lines to prevent interference or encroachment by fencing, walls, hedges, or other planting or structures that may be placed along the property line at a later date.
 - (6) Compliance with ADA Requirements: All sidewalks and pedestrian facilities shall be designed in accordance with the applicable requirements of the Americans with Disabilities Act of 1990, as amended.
 - (7) Where sidewalks are not required by these regulations, but are installed on a voluntary basis, then the voluntary installation of sidewalks shall also be required to meet the standards of these regulations.

6-1-8. SIGNAGE

- (1) Street Signage: Proper signage in accordance with the “Manual of Uniform Traffic Control Devices” (MUTCD) shall be required and maintained in all subdivisions. The Developer will be responsible for the placement and maintenance of proper signage of new streets or roads until and unless the road is accepted into the county road system. A signage plan shall be submitted to the County Engineer for approval prior to the installation of any street signs. Regulatory and Warning Signs shall be in accordance with the Manual of Uniform Traffic Control Devices (MUTCD).

Additionally, the developer or owner of the subdivision is required to install a sign of reasonable size at all entrances of the subdivision stating "PRIVATE ROAD" and it is the responsibility of the developer or owners of the subdivision to maintain these signs until and unless the roads are accepted by the county.

- (2) Entrance Signage:
The applicant or developer is required to install entrance signage in the construction of all major subdivisions. Entrance signs shall include the name of the subdivision on a permanent base, such as brick or stone. Entrance signs shall be at least twenty-four (24) square feet in size and shall not be larger

than one hundred (100) square feet, inclusive of all poles or other support structures. Entrance signs shall be placed so as not to obstruct vehicular or pedestrian traffic or sight distances at the entrance street. Maintenance, repair and/or replacement of subdivision entrance signs shall be the responsibility of the subdivision homeowners' association, if one is established, or the property owners located within the subdivision.

6-1-9. STREET TREES

Mature street trees (in excess of ten [10] inches diameter breast height [dbh]) are an important visual icon for small, rural communities and an attractive amenity for residential neighborhoods. The planting and retention of street trees is considered a duty of the subdivider as well as good business practice. Therefore, Macon County urges all subdividers to retain as many existing mature trees within or along a proposed subdivision site as is possible. It is further recommended that new trees be planted five (5) feet inside (or behind) property lines where they will enjoy favorable conditions for growth and be less subject to injury from automobile accidents or excessive trimming to protect above-ground utility lines. If trees are to be planted within a planting strip in the right-of-way, their proposed locations and species to be used must be approved by the Macon County Planning Commission, since the public inherits the care and maintenance of such trees.

SECTION 6-2. PERMANENT REFERENCE POINTS

Permanent Reference Points shall be installed prior to Final Plat Approval or a surety bond posted with sufficient surety to secure the County the cost of installation of said permanent reference points.

6-2-1. SUBDIVISION CORNER TIE

At least one corner of the subdivision shall be designated by course and distance (tie) from an accepted corner of the Government Survey of Macon County. The subdivision corner shall be marked with a monument and shall appear on the map with a description of bearings and distances from the Government Survey corner.

6-2-2. MONUMENTS

Concrete monuments four (4) inches in diameter or four (4) inches square and two (2) feet long with a flat top shall be set at all exterior corners of the subdivision. The top of the monument shall have identifying cap of surveyor.

6-2-3. PROPERTY MARKERS

All lot corners not marked with a monument shall be marked with an iron pin not less than one-half (1/2) inch in diameter or in width, and eighteen (18) inches long, and driven so as to be flush with the finished grade. The top of the marker shall have identifying cap of surveyor.

ARTICLE 7
COMPLETION AND ACCEPTANCE OF REQUIRED IMPROVEMENTS

SECTION 7-1. INSTALLATION OF REQUIRED IMPROVEMENTS

The subdivider shall be responsible for the provision of all required improvements to the subdivision. This may be accomplished by either the full installation of all required improvements by the developer at the time the Final Plat is to be submitted to the County Planning Commission, or, if authorized by the County Planning Commission, by the provision of a financial guarantee of performance under conditions set out in these regulations.

7-1-1. SUBDIVISION IMPROVEMENT BOND

The guarantee of performance by the subdivider shall be in the form of an acceptable surety and shall meet the following requirements:

- (a) **ACCEPTANCE OF SURETY:** The surety must be approved by the County Planning Commission;
- (b) **VALUE OF SURETY:** The surety shall be of an amount equal to 150% percent of the estimated cost of installing all improvements, including, but not limited to, grading, paving of the streets, and installation of all required utilities and permanent reference points and fees encountered during execution of improvements.

Estimated costs shall be provided by the developer's engineer and approved by the County Planning and Zoning Enforcement Officer. The developer should submit a copy of the construction contract, contractor's estimate of cost, or cost estimate prepared by his engineer as documentation for the cost data included in the bond.

7-1-2. FAILURE TO COMPLETE WORK

If within eighteen (18) months after filing said surety, the subdivider has not completed all necessary improvements or if, in the opinion of the County Planning Commission, said improvements have not been satisfactorily installed, the County may take such steps as may be necessary to require performance under the bond.

SECTION 7-2. IMPROVEMENTS, INSPECTION AND CERTIFICATION

The County Planning and Zoning Enforcement Officer and/or the County Engineer shall monitor and periodically inspect for defects in the construction of the required improvements. If either the County Planning and Zoning Enforcement Officer or the County Engineer, upon inspection, find that any of the required improvements have not been constructed in accordance with the County's adopted construction standards and specifications, the applicant shall be responsible for correcting any deficiencies. Wherever the cost of improvements is covered by a surety, the applicant and the Surety Company shall

be severally and jointly liable for completing or paying the cost of the improvements according to specifications.

Upon completion of the improvements, the applicant shall file with the County Commission a statement stipulating the following: (Appendix II)

- (1) That all required improvements are complete;
- (2) That these improvements are in compliance with the minimum standards specified by the County Planning Commission and the County Planning and Zoning Enforcement Officer for their construction;
- (3) That the applicant knows of no defects from any cause in those improvements; and
- (4) That these improvements are free and clear of any encumbrances or liens.
- (5) That the developer agrees to correct any defects that appear in the improvements for a period of one year from the date of acceptance by the County.

SECTION 7-3. ENGINEERING PLAN (AS BUILT)

At the time of Final Plat approval, the applicant shall also submit an engineering plan giving details of construction and locations of the improvements as they were built or installed. The primary purpose of the engineering plan is to provide the County with a record of the location, size, inlet and outlet elevations of all drainage structures. If installation of improvements is completed under a bond, the applicant shall submit the engineering plan to the County upon request of release of the bond.

SECTION 7-4. ACCEPTANCE OF IMPROVEMENTS BY THE COUNTY

Upon satisfactory completion of all improvements, the developer shall petition the County Commission for acceptance of the improvements in the proposed subdivision. The County Commission shall acknowledge acceptance of said improvements by resolution at any scheduled meeting of the Commission.

SECTION 7-5. RELEASE OF GUARANTEES

Upon satisfactory completion of all improvements and acceptance by the County Commission, the Improvement Surety Bond shall be released.

ARTICLE 8 VARIANCES

SECTION 8-1. GENERAL

A variance may be granted in circumstances where the developer demonstrates that extraordinary hardships or practical difficulties, such as commercial development, may result from strict compliance with these regulations. The initial application shall be made to the County Planning and Zoning Enforcement Officer as part of the application for preliminary review set out in Section 4-3-1. The County Planning and Zoning Enforcement Officer shall review the application and the circumstances, and make a recommendation in writing to the County Planning Commission, with a copy provided to the developer, as to whether or not the variance should be granted. The Enforcement Officer's report shall set out in detail the basis for the recommendation.

If the County Planning and Zoning Enforcement Officer recommends that the variance be granted, he or she may recommend that it be conditioned upon the developer complying with special requirements as set out in the approval. Where the County Planning and Zoning Enforcement Officer has recommended to grant the variance, the County Planning Commission shall vote on the request prior to any construction of the development.

If the County Planning and Zoning Enforcement Officer recommends that the request for variance be denied, the developer may appeal that recommendation to the County Planning Commission, which shall consider the issue at the next regularly scheduled County Planning Commission meeting following notice of the recommendation. The County Planning and Zoning Enforcement Officer or his or her designee shall be present at the County Planning Commission meeting and shall present his or her reasons for recommending that the variance not be granted. The developer shall also be given an opportunity to be heard. A decision to grant the variance shall be made by recorded vote and shall require a majority of the membership of the County Planning Commission.

In determining whether to grant the variance, the County Planning and Zoning Enforcement Officer and the County Planning Commission shall make findings based upon the evidence presented to it in each specific case that:

- (a) The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property;
- (b) The conditions for which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;
- (c) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out;
- (d) The variance will not in any manner vary the provisions of other adopted policies and regulations of Macon County.

SECTION 8-2. CONDITIONS

In approving variances, the County Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives, standards or requirements of these regulations.

The County Planning Commission shall not grant any variance within the floodway unless the developer submits a study prepared by a registered professional engineer certifying that no increase in the 100-year flood level would result from the proposed development.

Within other areas subject to flooding, variances shall only be issued upon a determination by the County Planning Commission that the relief granted is the minimum necessary considering the flood hazard.

**ARTICLE 9
MANUFACTURED HOUSING PARKS**

SECTION 9-1. PURPOSE

The purpose of this section is to establish minimum standards for manufactured housing parks.

SECTION 9-2. DEFINITIONS

Words and phrases used in this section shall have the meanings as set forth in this section. Words and phrases not defined in this section but defined elsewhere in the subdivision regulations shall be given the meanings as set forth in such regulations. All other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise.

9-2-1 **MANUFACTURED HOUSING:** Single family detached housing that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974, and shall include structures known as manufactured homes or mobile homes.

9-2-2 **MANUFACTURED HOUSING PARK:** A parcel of land under single ownership that has been planned and improved for the placement of five (5) or more manufactured homes for dwelling purposes and for the production of income. Home sites within the manufactured housing park are leased to individual homeowners.

9-2-3 **MOBILE HOME:** (See Manufactured housing). A transportable, factory built home, designed to be used as a year round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

SECTION 9-3. PROCEDURE

The procedure for obtaining approval for a manufactured housing park is as follows.

9-3-1. **APPLICATION**

The applicant shall file an application for approval of a manufactured housing park. The application shall:

- (a) Be made on forms available at the offices of the Macon County Planning and Zoning Enforcement Officer;
- (b) Be accompanied by the required application fee according to the current schedule of fees established by the County Commission for the particular category of application;
- (c) Be accompanied by six (6) sets of black or blue line prints of the manufactured housing park site plan and two (2) sets of black or blue line prints of the construction plans prepared in accordance with the requirements of the subdivision regulations;

- (d) Be submitted to the Macon County Planning Commission at least 30 days prior to a regularly scheduled meeting of the County Planning Commission.
- (e) Be accompanied by a transmittal letter listing all of the drawings, letters, calculations, attachments, and other information submitted for the application.
- (f) Prior to filing of an application for approval of a manufactured housing park, a pre-application conference should be held with the Macon County Planning and Zoning Enforcement Officer or his/her designee. The purpose of the conference is to consider informally the concept of the proposed manufactured housing park and the way in which it will meet the objectives of this section. No specific documents are required for the pre-application conference, but the applicant shall be responsible for providing sufficient information on which to base tentative conclusions as to the appropriateness and feasibility of the proposed manufactured housing park under the provisions of these regulations.

9-3-2. DEVELOPMENT STANDARDS

A manufactured housing park shall meet the minimum development standards and required improvements as specified in Article 5: Development Standards and Article 6: Required Improvements, except as provided below.

- (a) Development area. A manufactured housing park shall have a minimum total lot area of five (5) contiguous acres.
- (b) Space size.
 - (1) Each manufactured housing space shall have a minimum area of 5,000 square feet and a minimum width of 50 feet for single wide homes and a minimum area of 6,500 square feet and a minimum width of 50 feet for multisectional units.
 - (2) Manufactured housing parks not served by a public water or sewer system may have larger minimum area requirements as established by the Health Department.
- (c) Setbacks.
 - (1) Each manufactured housing park shall have a front yard of 50 feet extending for the full width of the parcel devoted to said use.
 - (2) Each manufactured housing park shall have a rear yard and a side yard on both sides of the parcel devoted to said use of not less than 30 feet.
 - (3) There shall be a front yard setback of at least 10 feet from all interior park roads.
 - (4) Manufactured homes shall be so located on each space that there shall be at least a 20 foot clearance between manufactured homes. Where manufactured homes are parked end to end, the end to end clearance may not be less than 20 feet and shall not be less than 20 feet to any building within the park.

(d) Access.

- (1) A manufactured housing park shall have access from a publicly maintained paved street.
- (2) All manufactured housing spaces shall abut upon an interior park road improved in accordance with the minimum street width and minimum design standard specified in Section 5-6 for, at a minimum, a minor road. The Planning Commission may reduce the pavement width and/or approve an alternative paving surface if it finds that the reduction and/or alternative paving surface will:
 - a. improve site design;
 - b. protect the natural features of the site;
 - c. maintain harmony with neighboring uses;
 - d. promote the objectives and purpose of the master plan;
 - e. promote the intent and purpose of these regulations.
- (3) An applicant who wants the reduction of pavement width of streets and/or approval of an alternative paving surface as provided above shall submit a statement of justification for the reduction and/or waiver along with the required site plan.
- (4) Each manufactured housing space must contain at least 2 off-street parking spaces which are improved with a suitable all-weather surface.
- (5) Streets and parking areas within the manufactured housing park shall be maintained by the owner/operator of the manufactured housing park.

(e) Accessory uses. Management headquarters, recreational facilities, laundry facilities and other uses and structures customarily incidental to the operation of a manufactured housing park are permitted as accessory uses.

(f) Manufactured home stands and required improvements.

- (1) Tie downs. Each manufactured home shall have tie-downs or other devices securing the stability of the manufactured home based on the requirements of the manufacturer or the installation standards of the Alabama Manufactured Housing Commission.
- (2) Foundations. Foundations shall be installed in accordance with the standards set forth in the manufacturers' set-up requirements, or the installation standards of the Alabama Manufactured Housing Commission.
- (3) Steps and landings. Steps and landings are required for all homes and shall be constructed to the standards set forth in the Standard Building Code.
- (4) Skirting. Installation of skirting shall be required. Installation shall be in accordance with the manufacturers' installation instructions. Acceptable materials may include masonry, stone, metal, vinyl, or other materials manufactured for the purpose of skirting.

9-3-3. SITE PLAN REVIEW

After the County Engineer or his/her designee has reviewed the site plan and construction plans, the County Engineer or his/her designee shall certify to the Planning Commission whether the site plan meets the subdivision regulations. If the site plan meets the subdivision regulations, it shall be approved by the Planning Commission. Should the site plan be

determined by the County Engineer or his/her designee to be deficient in any regard, the County Engineer or his/her designee shall detail the deficiency to the Planning Commission along with a recommendation that the site plan be disapproved. Notice of the recommendation of the County Engineer or his/her designee shall be sent to the owner or developer whose name and address appears on the submitted site plan by registered or certified mail at least 10 days before the recommendation shall be presented to the Planning Commission for action. A similar notice shall be mailed to the owners of land immediately adjoining the property as their names appear upon the plats in the office of the county tax assessor and their addresses appear in the directory of the county or on the tax records of the county and to each utility affected thereby.

9-3-4. RESUBMISSION OF SITE PLAN

The Macon County Planning Commission shall not consider, for a period of 12 months, a site plan which has been submitted for approval after Macon County Planning Commission disapproval, unless the applicant has complied with the County Planning Commission's required changes and/or additions. Any resubmission shall be subject to payment of the required fee.

9-3-5. SITE PLAN REQUIREMENTS

The site plan shall be prepared by a licensed engineer or land surveyor and shall be clearly and legibly drawn at a convenient scale of not less than one (1) inch equals 100 feet, and the sheets shall be numbered in sequence if more than one (1) sheet is used. All text shall be a minimum of 1/10 of an inch in height. The sheet shall not exceed 24 x 36 inches. The site plan shall show the following:

- (a) Name and address of owner(s) of record;
- (b) Proposed name of manufactured housing park, date, north point, scale, and location;
- (c) Name of licensed engineer or land surveyor;
- (d) Vicinity map showing the location of the manufactured housing park;
- (e) Exact boundaries of the site shown with bearings and distances;
- (f) Names and addresses of the owners of land immediately adjoining the site as their names appear upon the plats in the office of the county tax assessor and their addresses appear in the directory of the county or on the tax records of the county;
- (g) Wooded areas, marshes, and any other conditions affecting the site;
- (h) The location of existing streets, buildings, water courses, railroads, transmission lines, drainage structures, public utilities, jurisdiction lines, and any public utility easements on the site and on adjacent land within 100 feet of the site;
- (i) Proposed rights-of-way or easements including location, widths, purposes, and street names;
- (j) The location and size of all manufactured housing spaces;
- (k) Proposed minimum building setback lines shown and labeled on each space;
- (l) Proposed parks, school sites, or other public open spaces, if any;
- (m) Site data:
 1. Acreage in total tract;

2. Smallest space size;
 3. Total number of spaces;
 4. Linear feet in streets;
 5. Amount of impervious surface;
 6. Density.
- (n) Any area within or adjacent within 100 feet of the proposed manufactured housing park subject to inundation by the base flood as defined herein, or subject to periodic inundation by storm drainage overflow or ponding, shall be clearly shown and identified on the site plan;
 - (o) Special flood hazard areas and/or coastal high hazard areas as indicated on the latest Flood Insurance Rate Map (FIRM) for the area, along with a statement to that effect;
 - (p) U.S. Army Corps of Engineers wetlands jurisdictional determination if the proposed subdivision contains wetlands or is within 100 feet of a wetland as determined from the Generalized Wetland Map;
 - (q) The name of each utility company proposed to provide water, sewer, electrical, and telephone service.
 - (r) Proposed land uses and the location of proposed buildings and other structures including walls and fences;
 - (s) Number and location of parking spaces;
 - (t) The method proposed to maintain private common open areas, buildings or other facilities, including copies of all legal documents necessary to accomplish this;
 - (u) A schedule of development;
 - (v) Topography, including existing contours at 2 foot intervals.

9-3-6. CONSTRUCTION PLANS

At the time of submission of the site plan, the applicant shall also submit construction plans for all required improvements in accordance with Section 4-4-9: Construction Plans Requirements.

9-3-7. APPROVALS

- (a) No site plan shall be approved by the Macon County Planning Commission until each utility affected has submitted a written report to the Macon County Planning Commission as to whether all provisions affecting the service to be provided by the utility are reasonable and adequate. No development may proceed until all required local, state and federal permits have been received and submitted to the Macon County Planning and Zoning Enforcement Officer or his/her designee including but not limited to: Health Department certificate of approval; NPDES permit; Section 401 and 404 Clean Water Act permit; and Alabama Department of Transportation access permit.
- (b) The approved site plan, with attendant documentation, shall thereafter be binding upon the owner, his/her heirs, successors and assigns, shall limit and control the issuance and validity of permits and certificates and shall restrict and limit the use and operation of all land and structures within the manufactured

housing park to all conditions and limitations specified in such plan and the approval thereof.

- (c) Minor changes in the location and siting of buildings and improvements may be authorized by the Macon County Planning and Zoning Enforcement Officer, the Macon County Engineer or his/her designee if required by engineering or other circumstances not foreseen at the time the site plan was approved; provided, however, that the changes may not be authorized that may substantially alter the use and character of the manufactured housing park, reduce the amount of open space, or increase the number of manufactured housing spaces. Substantive changes in the site plan shall be considered amendments to the plan and shall be subject to the same procedures specified for approval of the site plan.
- (d) The County Engineer or his/her designee shall regularly inspect the construction of the required improvements. Upon completion of the improvements, the applicant shall file with the County Planning Commission a statement stipulating the following:
 - (1) That all required improvements are complete;
 - (2) That these improvements are in compliance with the minimum standards specified for their construction;
 - (3) That the applicant knows of no defects from any cause in these improvements; and,
 - (4) That these improvements are free and clear of any encumbrance or lien.
- (e) No land use certificate or building permit shall be issued for manufactured homes to be located in the manufactured home park until the Macon County Planning and Zoning Enforcement Officer or his/her designee has determined that the installation of all required improvements has been satisfactorily completed in accordance with County specifications.

SECTION 9-4. NONCONFORMITIES

The lawful use of land as a manufactured housing park existing or under construction at the time of the adoption of this Article, although such use does not conform to the provisions herein, may be continued, but if such nonconforming use is discontinued for a period of one (1) year, the use may not be reestablished except in conformity with these regulations. Any expansion or addition to an existing nonconforming manufactured housing park shall be in conformity with these regulations. For the purpose of this Section, under construction shall mean that a legal building permit has been issued and that actual construction has been or will be started within the initial period of validity of the permit, exclusive of any time extensions.

SECTION 9-5. MANUFACTURED HOUSING PARKS IN ZONING DISTRICTS

In districts which have elected to come within the planning and zoning authority of the Macon County Commission, manufactured housing parks shall also be subject to the applicable provisions of the Macon County Zoning Ordinance.

ARTICLE 10 PLANNED DEVELOPMENTS

SECTION 10-1. PURPOSE

The regulations established in this article are intended to provide optional methods of land development which encourages imaginative solutions to environmental design problems, with provisions for residential, institutional, recreational, office, commercial, and industrial uses which are characterized by a unified building and site development program providing for coordinated open space and architectural treatment, and to provide a mechanism for the development of multi-family projects in unincorporated Macon County.

SECTION 10-2. DEFINITIONS

Words and phrases used in this section shall have the meanings as set forth in this section. Words and phrases not defined in this section but defined elsewhere in the subdivision regulations shall be given the meanings as set forth in such regulations. All other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise.

10-2-1. **LARGE SCALE PLANNED DEVELOPMENTS:** A development of land, occupying 1,000 contiguous acres or more, that is under unified control and is planned and developed as a whole, in a single development operation, or programmed series of development stages. A large scale planned development containing 4 units or less is exempt from these provisions. Large Scale Planned Developments are required to obtain Conceptual Site Plan approval (reviewed first by Planning Commission and recommendation sent to the County Commission for final consideration), and then obtain Final Site Plan approval for each phase of development, as outlined herein.

10-2-2. **SMALL SCALE PLANNED DEVELOPMENTS:** A development of land, occupying at least five (5) acres and less than 1,000 contiguous acres, that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. A small scale planned development containing 4 units or less is exempt from these provisions. Small Scale Planned Developments are required to obtain Final Site Plan approval (reviewed by Planning Commission only) as outlined herein.

SECTION 10-3. GENERAL

The parcel or parcels of land for a Planned Development shall be in unified control, and shall be owned or controlled by either a single person, corporation, agency, group of individuals or like organizations. The applicant shall provide the county appropriate and necessary documents to indicate ownership. No application shall be considered until this section is fully complied with. An application must be filed by the owner or authorized agent of all property included in the project. In the case of multiple ownership, the approved final development plan shall be binding on all owners and any successors. The developer shall maintain and provide for unified control of the Planned Development until the project is complete. The entity designated to provide unified control shall ensure that all conditions of

development are met. Individual properties may be sold after appropriate approvals and recordings have been completed and that proper recordings have been made which insures the continuance of the Planned Development as approved. Responsibility for unified control may be assigned to an individual or entity such as a homeowner's association that will provide for the maintenance of any common property and improvements.

10-3-2. DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENTS

A planned development shall meet the minimum development standards specified in Article 5: Development Standards except as provided below.

- (a) Development area. A planned development shall have a minimum development area of five (5) contiguous acres.
- (b) Open space reservation.
 - (1) A minimum of twenty percent (20%) of the gross land area of the planned development shall be set aside for permanent open space for passive and/or active recreation such as parks, recreational facilities, pedestrian ways, and/or for conserving sensitive elements of the environment.
 - a. Stormwater detention ponds, retention ponds, or similar holding basins for stormwater, steep slopes, internal street rights-of-way, driveways, off-street parking areas, and off-street loading areas or similar uses shall not be counted in determining open space.
 - b. A minimum of fifty percent (50%) of the required open space must be must be usable for passive or active recreation purposes. The usable open space shall not include steep slopes, streams, ponds, watercourses, or wetlands.
 - (2) The required open space may be owned in common by the residents of the development. Any open space set aside for conservation shall be subjected to a conservation easement granted to a qualified land trust, conservation organization or government agency. Such conservation easement shall be in legal form satisfactory to the County.
- (c) Lot size. No minimum lot sizes are required so that housing can be clustered or otherwise concentrated or arranged in planned locations on the site to take advantage of its natural features.
- (d) Building Setbacks. For multi-family structures, the required setback from the property line or from other buildings shall be twenty (20) feet for up to a building height of thirty-five (35) feet, and shall be increased one (1) foot for each ten (10) feet of building height in excess of thirty-five (35) feet.
- (e) Non residential uses. Non residential land uses (excluding open space) including institutional uses, office and professional service uses, local commercial uses and general commercial uses may not occupy more than twenty (20) percent of the gross acreage of a Residential Planned Development. The following criteria shall be met to the County's satisfaction:
 - (1) The location of non residential land uses demonstrates a rational development scheme;
 - (2) The non residential land uses are centrally located and interrelated to the development as a whole;

- (3) The non residential land uses are located in the interior of the development, and does front an exterior or perimeter street or road;
- (f) In approving a planned development, the Planning Commission may reduce the pavement width and/or approve an alternative paving surface of any streets that would otherwise be required by the Subdivision Regulations and/or may waive the installation of curbs, gutters, and/or sidewalks if it finds that the reduction and/or waiver will:
 - (1) improve site design;
 - (2) protect the natural features of the site;
 - (3) maintain harmony with neighboring uses;
 - (4) promote the objectives and purpose of the master plan;
 - (5) promote the intent and purpose of these regulations.
- (g) An applicant who wants the reduction of pavement width of streets and/or the waiver of the installation of curbs, gutters, and/or sidewalks as provided in Section 10-3-2(f) above shall submit a statement of justification for the reduction and/or waiver along with the required site plan.

10-3-3. SITE PLAN REVIEW STANDARDS

- (a) Approval of a planned development shall be based on the Planning Commission's consideration of the following:
 - (1) That the value and character of the property or properties adjacent to the tract of land under consideration will not be adversely affected;
 - (2) That the proposed development promotes the objectives and purpose of the master plan;
 - (3) That the proposed development is consistent with the intent and purpose of these regulations to promote public health, safety, morals and general welfare; and
 - (4) That the proposed development meets the requirements of these regulations as well as the requirements of all other regulating bodies.

After the Macon County Planning and Zoning Enforcement Officer or his/her designee has reviewed the site plan and construction plans, the Macon County Planning and Zoning Enforcement Officer or his/her designee shall certify to the Planning Commission whether the site plan meets the submittal requirements as specified in this Article. Should the site plan be determined by the County Planning and Zoning Enforcement Officer or his/her designee to be deficient in any regard, the County Planning and Zoning Enforcement Officer or his/her designee shall detail the deficiency to the Planning Commission along with a recommendation that the site plan be disapproved.

10-3-4. RESUBMISSION OF SITE PLAN

The Macon County Planning Commission shall not consider, for a period of 12 months, a site plan which has been submitted for approval after County Planning Commission disapproval, unless the applicant has complied with the County Planning Commission's required changes and/or additions. Any resubmission shall be subject to payment of the required application fee.

10-3-5. EFFECTIVE PERIOD OF APPROVAL

Conceptual Site Plan approval shall be effective for a period three (3) years from the date of approval by the Macon County Planning Commission. In the case of a phased Planned Development, the Final Site Plan or Preliminary Plat for the first phase shall be submitted for approval in order to start construction. Each successive phase must be submitted to the County and start construction within two (2) years of the previously approved phase.

Final Site Plan approval shall be effective for a period of two (2) years. If no construction has commenced within two (2) years, the developer shall have thirty (30) calendar days from the date of expiration to file for a one (1) year extension. If no extension is requested the site plan approval shall be automatically revoked. A maximum of two (2) one (1) year extension may be granted. If an extension is granted the proposed development must conform to the Subdivision Regulations in place at the time when the extension is granted.

10-3-6. EXTENSION

Extensions may be granted only upon a demonstration to the satisfaction of the Macon County Planning Commission, that the need for extension results from an event that the developer could not have anticipated and controlled, which event or effect makes the commencement or continuation impossible or impracticable.

10-3-7. ANNUAL WRITTEN REPORTS

The developer shall submit a written report to the Macon County Planning Commission each year the development is under construction. The report shall be submitted no later than thirty (30) days after the month and date of initial approval. If not submitted as required, then all permits and approvals will be withheld, until properly submitted. The report shall be considered an attachment to the original Planned Development application. The report shall include at a minimum the following:

- (a) General Project status;
- (b) Total number of lots platted or buildings constructed;
- (c) Total number of dwellings constructed;
- (d) Infrastructure improvements complete to date;
- (e) Status of future phases if appropriate;
- (f) Completion of Phases
- (g) Anticipated commencement of construction of future phases.

10-3-8. MODIFICATION OF CONCEPTUAL SITE PLAN

Any proposed major or substantial change in the approved Conceptual Site Plan which affects the intent and/or character of the development, the location or dimensions arterial streets, or similar substantial changes, shall require approval through the Planned Development Modification process. A request for modification shall be supported by a written narrative and by revised Conceptual Site Plans. Minor changes or deviations from the original Conceptual Site Plan which do not affect the intent or character of the development may be reviewed and approved by the Macon County Planning and Zoning Enforcement Officer. Upon written approval, the revised Conceptual Site Plans approved by the Macon County Planning and Zoning Enforcement Officer shall be considered the approved Conceptual Site Plans. Any future modification or changes will be reviewed as set

out herein. The total number of dwellings approved by the County Commission under the original Conceptual Site Plan may not be increased over the life of the development, unless additional property is acquired and added to said development.

- (a) Examples of major or substantial changes are:
 - Overall boundary changes,
 - Relocation of major streets,
 - Overall density increase,
 - Building height increase.
- (b) Examples of minor changes are:
 - Change in alignment, location, direction, or length of local street,
 - Reorientation or slight shifts in building or lot locations,
 - Decrease in building height or overall number of units .

10-3-9. MODIFICATION OF FINAL SITE PLAN

Any proposed major or substantial change in the approved Final Site Plan which affects the intent and/or character of the development, the location or dimensions arterial streets, or similar substantial changes, shall require approval through the Planned Development Modification process. A request for modification shall be supported by a written narrative and by revised Final Site Plans. Upon written approval, the revised Final Site Plans approved by the Macon County Planning and Zoning Enforcement Officer shall then be considered the approved Final Site Plan. Any future modification or changes will be reviewed as set out herein.

- (a) Examples of major or substantial changes are:
 - Boundary changes,
 - Street relocation,
 - Substantial change in the lot configuration,
 - Increase in number of dwelling units for approved site plan,
 - Building height increase.
- (b) Examples of minor changes are:
 - Slight change in alignment, location, direction, or length of local street,
 - Adjustments, reorientations or minor shifts in dwelling units, buildings or lot lines, not resulting in an increased number of dwelling units for said Final Site Plan,
 - Decrease in building height or density.

10-3-10. PLANNED DEVELOPMENT MODIFICATION PROCEDURE

Substantive changes in the conceptual or final site plan shall be considered amendments to the plan and shall be subject to the same procedures specified for approval of the planned development. In large scale planned developments, request for modifications may be requested for a phase of the development. Only the phase in which the modification is being requested shall be subject to the modification procedures.

SECTION 10-4. SMALL SCALE PLANNED DEVELOPMENT PROCEDURES

The procedure for obtaining approval for a Small Scale Planned Development is as follows (see also Section 10.6: Planned Developments in Zoning Districts which have elected to come within the planning and zoning authority of the Macon County Commission).

10-4-1. SMALL SCALE PLANNED DEVELOPMENTS APPLICATION

The applicant shall file an application for approval of a Small Scale Planned Development. The application shall be submitted in accordance with Section 10.5.7 Final Site Plan Application.

10-4-2. SMALL SCALE PLANNED DEVELOPMENTS SITE PLAN REQUIREMENTS

The site plan shall be prepared by a licensed engineer or registered land surveyor and shall be clearly and legibly drawn at a convenient scale of not less than one (1) inch equals 100 feet, and the sheets shall be numbered in sequence if more than one (1) sheet is used. All text shall be a minimum of 1/10 of an inch in height. The sheet shall not exceed 24 x 36 inches. The site plan shall be submitted in accordance with Section 10.5.8 Final Site Plan Requirements.

10-4-3. FUTURE APPROVALS FOR SMALL SCALE PLANNED DEVELOPMENT

Once the Final Site Plan and required submittals are approved by the Macon County Planning Commission, the applicant(s) must then submit either a preliminary plat (for typical subdivisions) in accordance with Section 4-4 for each phase of the project. Submittals of all Preliminary plats, Final plats and Building Permits shall be in accordance with the approved Final Site Plan.

SECTION 10-5. LARGE SCALE PLANNED DEVELOPMENT PROCEDURES

10-5-1. CONCEPTUAL SITE PLAN APPLICATION

The applicant shall file an application for approval of a Conceptual Site Plan. The Conceptual Site Plan must:

- (a) Be made on Conceptual Site Plan forms available at the offices of the Macon County Planning and Zoning Enforcement Officer;
- (b) Be accompanied by the required application fee according to the schedule of fees outlined in Section 4-7: Fees for the particular category of application;
- (c) Be accompanied by a boundary survey that shall be submitted at a suitable scale indicating existing buildings, water courses, transmission lines, sewer lines, water lines and any public utility easements;
- (d) Be submitted with a Conceptual Site Plan as outlined below;
- (e) Be submitted with a Utility Service Plan as outlined below;
- (f) Be submitted with a Conceptual Written Summary as outlined below;
- (g) Be submitted to the Macon County Planning and Zoning Enforcement Officer at least 30 days prior to a regularly scheduled meeting of the Macon County Planning Commission;
- (h) Be accompanied by a transmittal letter listing all of the drawings, letters, attachments, and other information submitted for the application;

10-5-2. CONCEPTUAL SITE PLAN REQUIREMENTS

The Conceptual Site Plan must be drawn at a suitable scale for review and include the following:

- (a) Proposed land uses, housing types, or building types by generalized area;
- (b) Proposed common areas and open space, showing proposed uses (i.e. recreation, detention, park, school, church, etc.)
- (c) Proposed pedestrian pathways and bicycle paths;
- (d) The proposed location of the internal major and minor street system, the adjacent external street system and connections to the adjacent external street system, and typical sections of proposed streets;
- (e) The location, type and total gross square footage of all non-residential uses;
- (f) A development schedule with a generalized phasing schedule, if appropriate; and
- (g) Plans for traffic and circulation inside and outside the development in the immediate vicinity.

10-5-3. CONCEPTUAL PLAN WRITTEN SUMMARY

A Conceptual Plan written summary shall include the following:

- (a) A Narrative that generally describes the entire project;
- (b) A statement of the present ownership and a legal description of the property;
- (c) Proposed land uses and development standards, density, height, yard requirements, typical lot configurations, and proposed restrictive covenants;
- (d) Tables showing the maximum number, type and density of dwelling units proposed for each phase or site and land use;
- (e) Statement regarding proposed dedication or reservation of land for public use, including streets, easements, parks and school sites;
- (f) Statement regarding water, sewer, electrical, telephone, fire protection, and solid waste collection service for the proposed development;
- (g) Statement regarding the general method proposed for stormwater management and erosion control;
- (h) A traffic study shall be performed and submitted with written summary which shall cover an area of influence from the proposed development to the nearest north-south major arterial and east-west major arterial; and,
- (i) A statement indicating the type of legal instrument that will be created to provide for the management of common areas.

10-5-4. UTILITY SERVICE PLAN REQUIREMENTS

A Utility Service Plan shall include the following:

- (a) A Generalized Utility Plan indicating the location and size of existing water and sewer lines, as well as any proposed offsite utility upgrades.
- (b) A Statement of Utility Service Commitment for the water, sewer, electric and telephone utility providers. This Statement of Commitment must include that the utility provider is willing and financially capable of providing service to the development at present and in the future. The statement shall indicate the location of the treatment facility, the current capacity of said treatment facility, the current flow to the treatment plant, the current number of customers serviced

by the treatment facility, the number of unconnected sewer services committed to by the sewer provider for said facility. It should also make reference to any immediate or future infrastructure upgrades that will be required due to said development, and at what stage of development these upgrades will be necessary.

- (c) A letter from the fire chief of the fire district that will serve the development, stating that the department is capable of providing fire protection for the development and that the utilities general layout, and building types will not reflect negatively on the current ISO rating of the citizens in that fire district. If a new fire district is to be created, then a similar letter from the responsible individual who intends to create such fire district is required. Proof of the creation of said fire district is required prior to Preliminary Plat or Final Site Plan approval.

10-5-5. PHASING

Development of a Large Scale Planned Development may be done in phases, in which case all the property to be included in the Planned Development shall be submitted as a Conceptual Site Plan. All phasing must be shown on the submitted plan.

10-5-6. FUTURE APPROVALS FOR LARGE SCALE PLANNED DEVELOPMENTS

Conceptual Plans are reviewed by the Planning Commission and a recommendation must be sent to the County Commission for final consideration. Once the Conceptual Plan and required submittals are approved by the County Commission, the applicant(s) must then submit a preliminary plat in accordance with Section 4-4 for each phase of the project. If all or part of a Large Scale Planning Development is not to be submitted as a preliminary plat under Section 4.4, then a Final Site Plan must be submitted to the Planning Commission for approval. Submittals of all Preliminary plats, Final plats and Final Site Plans shall be in accordance with the approved Conceptual Site Plan.

10-5-7. FINAL SITE PLAN APPLICATION

The applicant shall file an application for approval of a Final Site Plan. The Final Site Plan must:

- (a) Be made on forms available at the offices of the Macon County Planning and Zoning Enforcement Officer;
- (b) Be accompanied by the required application fee according to the schedule of fees outlined in Section 4-7: Fees for the particular category of application;
- (c) Be accompanied by six (6) black or blue-line prints of the Final Site Plan and two (2) sets of Construction Plans in accordance with Section 4-5-4. For developments that are required to be submitted as a Preliminary Plat, only a generalized stormwater management plan, erosion control plan, and utility plan are required at this time;
- (d) Comply in all respects with the Conceptual Site Plan, as approved, except for minor modifications as outlined in Section 10.5.6 (For Large Scale Planned Developments);

- (e) Be submitted to the Macon County Planning and Zoning Enforcement Officer at least 30 days prior to a regularly scheduled meeting of the Macon County Planning Commission;
- (f) Be submitted within the Effective Period of Approval as per Section 10-3-5 (For Large Scale Planned Developments);
- (g) Be accompanied by all required permits and approvals as per Section 4-5-4; and,
- (h) Be accompanied by a transmittal letter listing all of the drawings, letters, attachments, and other information submitted for the application.

10-5-8. FINAL SITE PLAN REQUIREMENTS

The Final Site Plan shall be prepared by a licensed engineer or registered land surveyor and shall be clearly and legibly drawn at a convenient scale of not less than one (1) inch equals 100 feet, and the sheets shall be numbered in sequence if more than one (1) sheet is used. All text shall be a minimum of 1/10 of an inch in height. The sheet shall not exceed 24 x 36 inches. Multiple sheets may be necessary. The Final Site Plan shall show the following:

- (a) Name and address of owner(s) of record;
- (b) Proposed name of planned development, date, north point, scale, and location;
- (c) Name of licensed engineer or land surveyor;
- (d) Vicinity map showing the location of the planned development;
- (e) Exact boundaries of the site shown with bearings and distances;
- (f) Names and addresses of the owners of land immediately adjoining the site as their names appear upon the plats in the office of the county tax assessor and their addresses appear in the directory of the county or on the tax records of the county;
- (g) Wooded areas, marshes, and any other conditions affecting the site;
- (h) The location of existing streets, buildings, water courses, railroads, transmission lines, drainage structures, public utilities, jurisdiction lines, and any public utility easements on the site and on adjacent land within 100 feet of the site;
- (i) Proposed and existing rights-of-way or easements including location, widths, purposes, and street names;
- (j) The location and size of all lots;
- (k) Proposed minimum building setback lines shown and labeled on each lot and/or building;
- (l) Proposed or existing parks, school sites, or other public open spaces, if any that are within 100 feet;
- (m) Site data:
 - (1) Acreage in total tract;
 - (2) Smallest lot size;
 - (3) Total square feet of each lot or unit (residential or commercial);
 - (4) Total number of lots or units;
 - (5) Linear feet in streets;
 - (6) Number of parking spaces;
 - (7) Amount of impervious surface; and
 - (8) Density;

- (n) Any area within or adjacent within 100 feet of the proposed planned residential development subject to inundation by the base flood as defined herein, or subject to periodic inundation by storm drainage overflow or ponding, shall be clearly shown and identified on the site plan;
- (o) Special flood hazard areas and/or coastal high hazard areas as indicated on the latest Flood Insurance Rate Map (FIRM) for the area, along with a statement to that effect;
- (p) U.S. Army Corps of Engineers wetlands jurisdictional determination if the proposed subdivision contains wetlands or is within 100 feet of a wetland as determined from the Generalized Wetland Map;
- (q) The name of each utility company proposed to provide water, sewer, electrical, and telephone service;
- (r) Proposed land uses and the location of proposed buildings and other structures including walls and fences;
- (s) Number and location of parking spaces;
- (t) A schedule of development;
- (u) Topography, including existing contours at 2 foot intervals; and
- (v) The method proposed to maintain private common open areas, buildings or other facilities, including copies of all legal documents necessary to accomplish this.

10-5-9. APPROVALS

The approved Final Site Plan, with attendant documentation, shall thereafter be binding upon the owner, his/her heirs, successors and assigns, shall limit and control the issuance and validity of permits and certificates and shall restrict and limit the use and operation of all land and structures within the planned development to all conditions and limitations specified in such plan and the approval thereof.

SECTION 10-6. PLANNED DEVELOPMENTS IN ZONING DISTRICTS

In Districts which have elected to come within the planning and zoning authority of the Macon County Commission, planned developments shall be subject to the applicable provisions of the Macon County Zoning Regulations.

ARTICLE 11
CONSERVATION DEVELOPMENTS

SECTION 11-1. PURPOSES

The purposes of conservation developments are as follows:

- (a) To provide a development option that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land;
- (b) To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands, and wildlife habitat;
- (c) To preserve important historic and archaeological sites;
- (d) To permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development;
- (e) To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development through a reduced building footprint;
- (f) To promote interconnected greenways and corridors throughout the community;
- (g) To promote contiguous green space with adjacent jurisdictions;
- (h) To encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places and encouraging use of parks and community facilities as focal points in the neighborhood;
- (i) To encourage street designs which reduce traffic speeds and reliance on main arteries;
- (j) To promote construction of convenient landscaped walking trails and bike paths both within the development and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles;
- (k) To conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of open space;
- (l) To preserve prime agricultural and forest lands and reduce the economic pressures for converting such land to urbanized uses.

SECTION 11-2. DEFINITIONS

Words and phrases used in this article shall have the meanings as set forth in this section. Words and phrases not defined in this section but defined elsewhere in the subdivision regulations shall be given the meanings as set forth in such regulations. All other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise.

11-2-1. **CONSERVATION DEVELOPMENT:** A development of land, occupying 10 contiguous acres or more, that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may cover more than one parcel as long as all parcels are contiguous, but the entirety of each included parcel shall be included in the gross area of the development. The requirements for approval are similar to those for subdivisions of the same size according to

the subdivision regulations, with the only differences being contained in this article. A Conservation Development requires a certain amount of permanently protected Open Space and does not require minimum lot or yard sizes. A Conservation Development must be clearly indicated as such on its Preliminary and Final Plats.

11-2-2. OPEN SPACE: The portion of the Conservation Development that has been set aside for permanent protection. Activities within the Open Space are restricted in perpetuity through the use of an approved legal instrument.

11-2-3 BUILDABLE AREA: The approximate acreage in a Conservation Development available for development as calculated according to Section 11.5 of this article. This figure does not represent the true acreage available for development; it is instead used only as an input to other calculations, such as the calculations to determine the maximum number of dwellings and the minimum acreage of Open Space.

SECTION 11-3. GENERAL REGULATIONS

11-3-1. UNIFIED CONTROL

The parcel or parcels of land for a Conservation Development shall be in unified control, and shall be owned or controlled by a single person, corporation, agency, group of individuals, or like organizations. The Applicant shall provide the County appropriate and necessary documents to indicate ownership. No application shall be considered until this section is fully complied with. An application must be filed by the owner or authorized agent of all property included in the project. In the case of multiple ownerships, the approved final development plan shall be binding on all owners and any successors. The developer shall maintain and provide for unified control of the Conservation Development until the project is complete. The entity designated to provide unified control shall ensure that all conditions of development are met. Individual properties may be sold after appropriate approvals and recordings have been completed and the proper recordings have been made which ensures the continuance of the Conservation Development as approved. Responsibility for unified control shall be assigned to a Homeowners Association that will provide for the maintenance of any common property and Open Space and for improvements.

11-3-2. DEVELOPMENT AREA

A Conservation Development shall have a minimum development area of 10 contiguous acres.

11-3-3. LOT AND YARD SIZE

No minimum areas or widths are required by these regulations for lots, and no minimum areas are required by these regulations for yards.

11-3-4. BUILDING SETBACKS

The minimum side yard setback shall be a minimum of three (3) feet for a single family designation. The front and rear setbacks shall be a minimum of twenty (20) feet.

11-3-5. COMMERCIAL LAND USES

Commercial land uses including institutional uses, office and professional service uses, local commercial uses, and general commercial uses may not occupy more than ten (10) percent of the gross acreage of the Conservation Development. The commercial land uses shall be centrally located. They shall be designed and operated to serve primarily the needs of the development and, to the extent feasible, shall be located in the interior of the development.

11-3-6. MAXIMUM DWELLING DETERMINATION

In districts that are not covered by the Macon County Zoning Regulations, the maximum number of dwellings in the Conservation Development shall be determined by either of the following two methods, at the discretion of the Applicant:

- (a) Calculation. The maximum number of dwellings is determined by dividing the non-commercial buildable area of the Conservation Development by the minimum lot size that these subdivision regulations would require for a conventional subdivision at the same location. Where fractional numbers result, the figure shall be rounded to the next lower number. In making this calculation, the buildable area shall be as calculated in Section 11.5, and from it shall be subtracted any land reserved for commercial uses. For mixed use buildings where the gross floor area used for commercial uses exceeds ten percent (10%) of the total gross floor area, the entire footprint shall be considered as land reserved for commercial uses.
- (b) Yield Plan. The maximum number of dwellings is based on a conventional subdivision design plan, prepared by the applicant, in which the Conservation Development is subdivided in a manner intended to yield the highest number of lots possible according to the applicable limits on minimum lot size contained in the Macon County Subdivision Regulations. The plan does not have to meet the formal requirements for a site design plan, but the design must be capable of being constructed given site features and all applicable regulations. The plan must include any land reserved for commercial uses.

11-3-7. MAXIMUM DWELLINGS BONUSES.

The maximum number of dwellings in the Conservation Development may be increased if Bonus Thresholds (as provided in Section 11.5) are exceeded, provided that the site is capable of accommodating the additional units without compromising the purpose of this ordinance, there is no adverse effect on public safety, the surrounding infrastructure can support the additional units, and adequate efforts were made to arrange the Open Space so that it links to greenways, trails, or other areas of Open Space on nearby parcels.

If Bonus Threshold 1 is met, the determined maximum number of dwellings may be increased by five percent (5%).

If Bonus Threshold 2 is met, the determined maximum number of dwellings may be increased by ten percent (10%).

These bonuses are not cumulative; rather, the permitted ten percent (10%) increase for a Conservation Development that achieves Bonus Threshold 2 is measured from the maximum number of dwellings as determined without applying any other dwellings bonuses. Where fractional numbers result, the figure shall be rounded to the next lower number. The Applicant may meet with the Macon County Planning and Zoning Enforcement Officer to determine whether the local infrastructure can handle the extra units, whether the infrastructure may require upgrading, whether the additional units comport with the purpose of this ordinance, and whether the additional units impact public safety.

11-3-8. FLEXIBLE STANDARDS.

The County encourages and will consider sensible methods to reduce impervious surfaces without compromising storm water management or public safety. Any applicant requesting such a reduction and/or waiver of pertinent regulations shall submit a statement of justification for the reduction and/or waiver along with the required site plan and shall obtain the written approval of the County Engineer or his/her designee. The Planning Commission may approve such methods if they:

- (a) improve site design;
- (b) protect the natural features of the site;
- (c) maintain harmony with neighboring uses;
- (d) promote the objectives and purpose of the master plan; and/or
- (e) promote the intent and purpose of these regulations.

SECTION 11-4. APPLICATION REQUIREMENTS

11-4-1. SITE ANALYSIS FEATURES REQUIRED

The Applicant must show the following features on a site analysis map to be submitted concurrent with the submission of a Preliminary or Final Plat in accordance with the Macon County Subdivision Regulations and to the same dimensional and professional specifications as the Preliminary and Final Plats:

- (a) All streams, rivers, lakes, and other hydrologic features;
- (b) General vegetation characteristics;
- (c) General soil types as determined from the latest soil survey by the Natural Resources Conservation Service of the United States Department of Agriculture;
- (d) The planned location of protected Open Space, and the portions of Open Space that are comprised of buildable area as calculated in Section 11.5 of this Article;
- (e) The total acreage of buildable area in the Conservation Development and the total acreage of buildable area in the protected Open Space, where “buildable area” is as calculated in Section 11.5 of this Article;
- (f) All Primary and Secondary Conservation Areas labeled by type, as described in Section 11.5 of this Article;
- (g) Potential connections with existing green space and trails;
- (h) Location and total area of proposed impervious surfaces.

Should the Applicant choose to submit a separate site analysis map, it must include the following features as on a Preliminary Plat: exact property boundaries, topographic contours,

delineated wetlands, special flood hazard areas and/or coastal high hazard areas, existing roads, and existing structures.

11-4-2. OPEN SPACE MANAGEMENT PLAN REQUIRED

An open space management plan, as described in Section 11.5, shall be prepared and submitted with the Preliminary and Final Plats.

11-4-3. INSTRUMENT OF PERMANENT PROTECTION REQUIRED

A conservation easement, as described in Section 11.5, shall be placed on the Open Space no later than the recording of the Final Plat. County Staff shall review and approve the conservation easement to ensure that it meets the minimum guidelines set forth in these regulations. The conservation easement and the Final Plat shall be filed simultaneously and shall make reference to each other. Each shall not be complete without the other.

11-4-4. OTHER REQUIREMENTS

In zoned districts, the Applicant shall adhere to all other applicable zoning and subdivision regulations. It shall be clearly indicated on the Preliminary and Final Plats that the proposed subdivision is a Conservation Development. The Applicant may submit a list of commitments, and approval may be based on the fulfillment of these conditions. Should these commitments not be upheld, the plat shall not be considered as having been approved.

SECTION 11-5. OPEN SPACE

11-5-1. STANDARDS TO DETERMINE OPEN SPACE AND BUILDABLE AREA

Buildable area is defined as the gross area of the conservation development minus the Open Space. The minimum restricted Open Space shall comprise all of the Primary Conservation Areas, as defined below. In addition, the minimum restricted Open Space shall include buildable areas totaling not less than twenty percent (20%) of the total buildable area of the Conservation Development, with emphasis given to Secondary Conservation Areas, as defined below. In making this and other determinations, the buildable area shall include the entire gross area of the Conservation Development except the following:

- a. Primary Conservation Areas, as defined below, unless the Applicant has demonstrated that including a particular area would constitute an unusual hardship and be counter to the purposes of this article;
- b. Natural bodies of open water including free-flowing streams over 5,000 square feet of contiguous area excluding man-made stormwater detention ponds, impoundments, and amenity lakes.
- c. Areas where development would otherwise be prohibited by law, regulation, or local ordinance, except where variances or permits have been obtained.

11-5-2. PRIMARY CONSERVATION AREAS

The following are considered Primary Conservation Areas and are required to be included within the Open Space, unless the Applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this article:

- a. Riparian zones of at least 75 foot width on each side from the centerline of every perennial and intermittent stream shown on the United States Geological Survey (USGS) quadrangle topographic maps;
- b. Slopes above 25% of at least 5000 square feet contiguous area;
- c. Wetlands determined to be jurisdictional by the U.S. Army Corps of Engineers pursuant to Section 404 of the Clean Water Act except for minor road crossings necessary for access to other upland buildable areas.
- d. Land seaward of the coastal construction zone limit, except where a variance has been obtained from the appropriate state and County authorities
- e. Total area of jurisdictional wetlands filled within 5 years prior to the submittal of the application on the parcel or parcels.

11-5-3. SECONDARY CONSERVATION AREAS

The following are considered Secondary Conservation Areas and should be included within the Open Space to the maximum extent feasible:

- (a) Non-jurisdictional wetlands that meet the definition of a wetland given in the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual;
- (b) Existing healthy, native forests (e.g. longleaf pine) of at least one acre contiguous area;
- (c) The 100-year floodplain;
- (d) Important historic sites, archaeological sites, cemeteries, and burial grounds;
- (e) Other significant natural features such as individual healthy trees of significant size and scenic viewsheds such as ridge lines, peaks, and rock outcroppings, particularly those that can be seen from public roads;
- (f) Prime agricultural lands of at least five acres contiguous area;
- (g) Existing trails that connect the Conservation Development to neighboring areas;
- (h) Populations of endangered or threatened species, or habitat for such species;

Above-ground utility rights-of-way, small areas of impervious surface, and areas within 10 feet of a road surface or building may be included within the protected Open Space but cannot be counted towards the twenty percent (20%) minimum buildable area requirement (exception: historic structures and existing trails may be counted). Large areas of impervious surface such as roads and parking lots shall be excluded from the Open Space, except as specifically authorized in other sections.

At least sixty percent (60%) of the total required Open Space, which includes any Open Space required to attain Bonus Thresholds, shall be in a contiguous area. Where feasible, the Open Space shall adjoin any neighboring areas of Open Space in other parcels, any other protected areas, and any non-protected natural areas that would be candidates for inclusion as part of a future area of protected Open Space. Two sections of Open Space on either side of a roadway are considered to be contiguous, provided that each of the two sections of Open Space comprises at least fifteen percent (15%) of the total Open Space.

The Open Space shall be directly accessible to the largest practicable number of lots within the development. Non-adjoining lots shall be provided with safe, convenient access to the Open Space.

11-5-4. BONUS THRESHOLDS

Conservation Developments may meet certain Bonus Thresholds by protecting additional Open Space. This Open Space is subject to the same rules and conditions as described elsewhere in these regulations. The buildable area of the Conservation Development shall be as calculated above. And, as above, all Primary Conservation Areas shall be included in the Open Space. The Bonus Thresholds are as follows:

- a. Bonus Threshold 1: The minimum restricted Open Space shall include buildable area totaling not less than 35% of the total buildable area of the Conservation Development.
- b. Bonus Threshold 2: The minimum restricted Open Space shall include buildable area totaling not less than 50% of the total buildable area of the Conservation Development.

11-5-5. PERMITTED USES OF OPEN SPACE

Uses of Open Space may include the following:

- (a) Conservation of natural, archaeological, or historical resources.
- (b) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas.
- (c) Walking or bicycle trails, provided they are constructed of porous paving materials.
- (d) Passive recreation areas, such as open fields.
- (e) Active recreation areas, provided that they are limited to no more than ten percent (10%) of the buildable Open Space and are not located within Primary Conservation Areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected Open Space.
- (f) Agriculture, horticulture, silviculture, or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts, provided such activities are not conducted within Primary Conservation Areas (except where minimal management practices are necessary for the maintenance of a healthy, viable forest or wetland), and provided such uses do not involve the clearing of forests, the filling of wetlands, or the conversion of forests to monocultures or plantations.
- (g) Subsurface wastewater disposal/reuse systems located on soils particularly suited to such uses and in compliance with Alabama Department of Environmental Management (ADEM) Underground Injection Control (UIC) permitted activities or Chapter 420-3-1 "Onsite Sewage Disposal and Subdivision-Onsite Sewage Systems, Water Supplies and Solid Waste Management" of the Rules of the State Board of Health Bureau of Environmental Services. Such facilities shall be located outside of Primary Conservation Areas. They should be naturally attractive and designed to function as native habitats, supporting native flora and fauna. The permitted systems do not include potable water or above-ground sewage treatment plants.
- (h) Easements for drainage, access, and underground utility lines.
- (i) Sidewalks.

- (j) Other conservation-oriented uses compatible with the purposes of this ordinance.

Whether or not to allow public access to the protected Open Space is at the discretion of the Applicant.

11-5-6. PROHIBITED USES OF OPEN SPACE

The uses of Open Space shall not include the following:

- (a) Golf courses.
- (b) Roads, parking lots, and impervious surfaces, except as specifically authorized in the previous sections.
- (c) Agriculture, horticulture, silviculture, or pasture uses that do not use all applicable best management practices to minimize environmental impacts, that are conducted within Primary Conservation Areas (except where minimal management practices are necessary for the maintenance of a healthy, viable forest or wetland), or that involve the clearing of forests, the filling of wetlands, or the conversion of forests to monocultures or plantations.
- (d) Impoundments.
- (e) Man-made lakes.
- (f) Commercial uses not specifically authorized in the previous section.
- (g) Mining uses.
- (h) Potable water or above-ground sewage treatment plants.
- (i) Stormwater management facilities and wastewater disposal systems not specifically authorized in the previous section.
- (j) Other activities as determined by the Applicant and recorded on the legal instrument providing for permanent protection.

These prohibited uses shall be clearly indicated in the legal instrument providing for permanent protection.

11-5-6. OWNERSHIP OF OPEN SPACE

A Homeowners Association representing residents of the Conservation Development shall own the Open Space. Membership in the Homeowners Association shall be mandatory and automatic for all homeowners of the development and their successors. The Homeowners Association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the Open Space and any facilities located thereon shall be borne by the Homeowners Association.

11-5-7. MANAGEMENT PLAN

The Applicant shall submit a Plan for the Management of Open Space and Common Facilities (“Plan”) that:

- (a) Provides guidelines for the maintenance and operation of the Open Space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;

- (b) Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the Open Space and outlines the means by which such funding will be obtained or provided;
- (c) Provides that any significant land use changes to the Plan be approved by the Macon Count Planning Commission and County Commission; and
- (d) Provides for enforcement of the Plan.

In the event the party or parties responsible for maintenance of the Open Space fail to maintain all or any portion in accordance with the submitted management plan, Baldwin County or its authorized agents or contractors may enter the premises and take corrective action or cause corrective action to be taken, including the provision of extended maintenance. The costs of such action and/or maintenance shall be chargeable to the said responsible party or parties, and/or to the Homeowners Association, and/or to the individual property owners that make up the Homeowners Association, and may include administrative costs and penalties. Such costs shall become a lien on all development properties.

11-5-7. LEGAL INSTRUMENT FOR PERMANENT PROTECTION

The Open Space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be a permanent conservation easement in favor of:

- (a) a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; and
- (b) the Macon County Commission.

The holders of the conservation easement shall produce a baseline documentation report to establish the condition of the property at the time the easement is transferred and to provide a basis for future monitoring and enforcement. The holders of the conservation easement shall also monitor and enforce the easement and defend it from challenges. The easement holders may request funds from the Applicant to cover or defray these costs, and the Applicant shall pay the requested funds. Such funds must be dedicated to these easement activities. The amount of funding shall be determined by the Applicant and the easement holders no later than the time of transferral.

The instrument for permanent protection shall include clear restrictions on the use of the Open Space. These restrictions shall include all restrictions contained in this article, as well as any further restrictions the Applicant chooses to place on the use of the Open Space.

For an area to be counted towards the Open Space requirement, the legal instrument for permanent protection shall not have been established more than 6 months prior to the submission of the first Preliminary Plat (or, if none is required, the first Final Plat) that clearly indicates that the proposed subdivision is to be a Conservation Development.

The County may, in its discretion, require a form conservation easement, and, in that event, the Applicant shall grant such easement as provided, except only that the Applicant may add such use restrictions as the Applicant desires. The County may, however, accept any easement from an Applicant which, in the County's sole discretion, substantially complies with these regulations.

11-5-8. TAX ASSESSMENT OF OPEN SPACE

Once a legal instrument for permanent protection has been placed upon the Open Space, the Homeowners Association may request that the Macon County Revenue Commission reassess the Open Space to reflect its more limited use.

ARTICLE 12
CONFLICT WITH PUBLIC AND PRIVATE PROVISIONS

SECTION 12-1. PUBLIC PROVISIONS

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, the provisions of which are more restrictive or impose higher standards shall control.

SECTION 12-2. PRIVATE PROVISIONS

These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction; provided, however, that where the provision of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. To the extent that any easement, covenant, or private agreement is not inconsistent with these regulations or any determinations made by the County Planning Commission in approving a subdivision or in enforcing these regulations, such private provisions shall be operative and supplemental to these regulations and any determinations made thereunder.

**ARTICLE 13
LEGAL PROVISIONS**

SECTION 13-1. SEVERABILITY

If any part or provision of these regulations is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined to its terms and shall not affect or impair the validity of the remainder of these regulations or their application to other persons or circumstances.

SECTION 13-2. SAVINGS PROVISION

Except as expressly provided in these regulations, these regulations shall have prospective application only and shall not be construed as abating, modifying, or altering any action, including any penalty, pending under any subdivision regulations in existence on the effective date of these regulations. These regulations shall not affect the rights or liability of any person, firm, or corporation, nor operate as a waiver of any right of the County under any section or provision existing at the time of adoption of these regulations. Notwithstanding the foregoing, any application for plat approval made after the County Planning Commission's adoption of these regulations which is pending on the effective date of these regulations shall be reviewed, approved, or disapproved in accordance with these regulations, provided that the owner or developer was given written notice at the time of application that these regulations would be utilized in the approval of the subdivision's design and development.

SECTION 13-3. INCORPORATION BY REFERENCE

Code of Alabama 1975, §11-24-1 et seq. and Code of Alabama 1975, §11-52-1 et seq. are attached hereto as Appendix IV, and are hereby specifically incorporated by reference and made a part of these regulations.

**APPENDIX I
SAMPLE CERTIFICATES AND APPLICATIONS**

Example A
(Preliminary Plat)

CERTIFICATE OF ENGINEERING DESIGN BY A PROFESSIONAL ENGINEER

I, _____, a professional engineer licensed in the State of Alabama, License Number _____, do hereby certify that the streets and drainage system for _____ Subdivision have been designed under my supervision.

I further certify that the drainage system has been designed to meet the _____ year storm criteria. This design will ensure that all drainage waters occurring during a storm of less than _____ year storm magnitude will flow within the rights-of-way or drainage easements indicated as such on the official plat for this subdivision.

I further certify that the streets are designed for a design speed of _____ to meet applicable design criteria for safety, geometry, and profile according to the AASHTO Policy on Geometric Design of Roads and Streets..

NAME _____

P.E.# _____

TITLE _____

FIRM _____

DATE _____

Example B
(Final Plat)

SURVEYOR.S CERTIFICATE AND DESCRIPTION OF LAND PLATTED

STATE OF ALABAMA)
COUNTY OF MACON)

I, (name of surveyor), a Licensed Professional Land Surveyor in the State of Alabama, for (Survey Company) state that this is a plat of an actual field survey of lots through _____, inclusive of (Name of Subdivision), more particularly described as follows:

DESCRIPTION

(Outboundary Description)

I further state that this survey and plat meets the Minimum Technical Standards as set forth by the Alabama State Board of Licensure for Professional Engineers and Land Surveyors in Rule 330-X-14-.05 (G) on March 31, 1990 (or most current revised rule) to the best of my knowledge, information and belief.

This the _____ day of _____, _____.

____(Signature of Surveyor)_____

____(Typed Name of Surveyor) _____

Alabama License # _____

Note: One of the following notary's acknowledgments must appear for each Surveyor's Certificate (see example D-1 and D-2). Surveyor's name should be used in the Acknowledgement.

Example C
(Final Plat)

DEDICATION

I, _____, the owner(s) of said lands surveyed by _____, do hereby certify that title was and is vested in said owner(s) and join in the foregoing statement made by said _____, and as stated in Code of Alabama 1975, Section 35-2-50 et seq., do hereby certify that it was and is my (our) intention to divide said lands into lots as shown by said plat and do hereby dedicate, grant, and convey for public use the streets, alleys and public grounds as shown on said plat.

Signed and sealed in the presence of:

Property Owner

Note: One of the following notary's acknowledgments must appear for each Dedication Certificate (see example D-1 and D-2). Owner's name should be used in Acknowledgement.

In cases where a subdivision is to remain private, the above dedication (Example D) shall state that the .streets, alleys, and public grounds shall remain private grounds as shown on said plat.

Example D-1

ACKNOWLEDGMENT

STATE OF ALABAMA)
COUNTY OF MACON)

I, _____, Notary Public in and for said County, in said State, hereby certify that (corporate officer's name), whose name as (title) of the (corporation name), is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the content of the instrument, he/she as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

GIVEN under my hand and official seal this _____ day of _____, _____.

NOTARY PUBLIC

Example of D-2

ACKNOWLEDGMENT

STATE OF ALABAMA)
COUNTY OF MACON)

I, _____, Notary Public in and for said County, in said State, hereby certify that (owner’s or surveyor’s name), whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the content of the instrument, executed the same voluntarily.

GIVEN under my hand and official seal this _____ day of _____, _____.

NOTARY PUBLIC

Example E
(Final Plat)

CERTIFICATE OF APPROVAL BY (UTILITY COMPANY)

The undersigned, as authorized by (the Utility) hereby approve the within plat for the recording of same in the Probate Office of Macon County, Alabama, this _____ day of _____, _____.

(Utility authorized signature)

Example F
(Final Plat)

CERTIFICATE OF APPROVAL BY THE
(insert name of water and sewer, if available, utility)

The undersigned, as authorized by the *(name of water and sewer utility)* hereby approved the within plat for the recording of the same in the Probate Office of Macon County, Alabama, this the _____ day of _____, _____.

(water and sewer utility authorized signature)

Example G
(Final Plat)

CERTIFICATE OF APPROVAL BY THE COUNTY ENGINEER

The undersigned, as County Engineer of the County of Macon County, Alabama, hereby approved the within plat for the recording of same in the Probate Office of Macon County, Alabama, this ____ day of _____, _____.

County Engineer
County of Macon County Alabama

Example H
(Final Plat)

CERTIFICATE OF APPROVAL BY THE MACON COUNTY EMA

The undersigned, as Director of the Macon County, Alabama Emergency Management Office, hereby approved the within plat for the recording of same in the Probate Office of Macon County, Alabama, this ____ day of _____, _____.

Director
Macon County Office of Emergency Management

Example I
(Final Plat)

**CERTIFICATE OF APPROVAL BY THE
MACON COUNTY HEALTH DEPARTMENT**

The undersigned, as authorized by the Macon County Health Department, Alabama, hereby certifies this subdivision meets the approval of the Macon County Health Department subject to certain conditions of approval and/or lot deletions on file with the said health department, which conditions are made a part of this approval as if set out hereon. I hereby approve the within plat for the recording of same in the Probate Office of Macon County, Alabama, this ____ day of _____, _____.

Health Officer

Example J
(Final Plat)

**CERTIFICATE OF APPROVAL BY
THE MACON COUNTY PLANNING COMMISSION**

The undersigned, as Chair of the Macon County Planning Commission hereby certifies that the Macon County Planning Commission approved the within plat for the recording of same in the Probate Office of Macon County, Alabama, this ____day of _____,_____.

Chair
Macon County Planning Commission

APPENDIX II
SAMPLE APPLICATIONS

APPLICATION FOR PRELIMINARY REVIEW

DATE: _____

1. Name of Subdivision: _____

2. Name of Applicant: _____ Phone: _____

Address: _____

3. Owner of Record: _____

Address: _____

4. Engineer: _____ Phone: _____

Address: _____

5. Land Surveyor: _____ Phone: _____

Address: _____

6. Attorney: _____ Phone: _____

Address: _____

7. Subdivision Location: _____

8. Total Acreage: _____ Number of Lots: _____

9. Has this plan been before the Commission in the past? _____

If yes, have any changes been made since this plans was last before the Commission? _____

If so, describe the changes:

10. List **all** adjacent property owner(s) name and addresses.

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

11. Attach two (2) copies of Preliminary Plat and Construction Plans.

APPLICATION FOR FINAL PLAT APPROVAL

DATE: _____

1. Name of Subdivision: _____

2. Name of Applicant: _____ Phone: _____

Address: _____

3. Owner of Record: _____

Address: _____

4. Engineer: _____ Phone: _____

Address: _____

5. Land Surveyor: _____ Phone: _____

Address: _____

6. Attorney: _____ Phone: _____

Address: _____

7. Subdivision Location: _____

8. Total Acreage: _____ Number of Lots: _____

9. Has the Commission granted any variance to the subdivision regulations concerning this property? _____

If so, describe: _____

10. Date of preliminary plan review: _____

11. Have any changes been made since the preliminary plans have been reviewed?

12. Attach the original tracing of the final plat and two (2) black or blue line prints with all required signatures except the signature of the County Engineer.

GUARANTEE AGREEMENT STATEMENT

STATE OF ALABAMA
COUNTY OF MACON

I/We, _____ as Developer, and _____ as Contractor, of _____ subdivision hereby agree to guaranty the Improvements in the subdivision against any defects in construction for a period of 1 year from the date of acceptance by the Macon County Commission.

We hereby agree to correct any defects (such as, but not limited to; base or pavement failures, ditch erosion, pipe separation or collapse) that arise during this 1 year period at not cost to the Macon County Commission.

Agreed this _____ day of _____, _____ .

Contractor Property Owner/Developer

Notary Public

**APPENDIX III
AMENDMENTS**

**APPENDIX IV
APPLICABLE STATE LAWS**

Code of Alabama, 1975, as amended
Title 11, Chapter 24: Regulation of Subdivisions

Section 11-24-1

Definitions; regulation of lots, streets, drainage, utilities, etc.; developer to reimburse utility for uneconomical placement.

(a) When used in this chapter, the following words shall have the following meanings:

(1) COUNTY. A political subdivision of the state created by statute to aid in the administration of government.

(2) COUNTY COMMISSION. The chief administrative or legislative body of the county.

(3) STREETS. Streets, avenues, boulevards, roads, lanes, alleys, viaducts, and other roads.

(4) SUBDIVISION. The development and division of a lot, tract, or parcel of land into two or more lots, plats, sites, or otherwise for the purpose of establishing or creating a subdivision through the sale, lease, or building development. Development includes, but is not limited to, the design work of lot layout, the construction of drainage structures, the construction of buildings or public use areas, the planning and construction of public streets and public roads, and the placement of public utilities. A subdivision does not include the construction or development of roads or buildings on private property to be used for agricultural purposes.

(b) The county commission or like governing body of each county in the state shall be authorized to regulate the minimum size of lots, the planning and construction of all public streets, public roads, and drainage structures and require proper placement of public utilities to be located in proposed subdivisions of land or in proposed additions to subdivisions of land existing at the time of the enactment of this chapter where the subdivisions are situated outside the corporate limits of any municipality in the county. The placement of public utilities shall not be inconsistent with the requirements of the Southern Standard Building Code, state and federal laws, and regulations of state and federal regulatory agencies. If the county commission or like governing body of any county shall require the placement of public utility facilities in any subdivision or addition thereto in a manner which is other than the most economical method available from an engineering standpoint, then the developer of the subdivision or addition shall reimburse the utility for the difference in cost between the method so required by the county governing body and the most economical method available.

(c) The county commission or like governing body of each county in the state may establish a board of developers to make suggestions to the commission regarding the development and division of subdivisions. The board may advise the commission on the contents of the regulations, revisions that need to be made to the regulations, and assist in resolving disputes between the commission and developers.

(Acts 1979, No. 79-553, p. 1002, §1; Acts 1997, No. 97-422, p. 718, §1.)

Section 11-24-2

Submission, review, and approval of plats; permit.

(a) It shall be the duty of the owner and developer of each subdivision to have all construction completed in conformity with this chapter and, prior to beginning any construction or development, to submit the proposed plat to the county commission for approval and obtain a permit to develop as required in this section. The permit to develop shall be obtained before the actual sale, offering for sale, transfer, or lease of any lots from the subdivision or addition to the public, it must include a plan to deliver utilities including water, and shall only be issued upon approval of the proposed plat by the county commission. As a condition for the issuance of a permit, the county commission may require any of the following for approval of the proposed plat:

(1) The filing and posting of a reasonable surety bond with the county commission by the developers of the proposed subdivisions or proposed additions to guarantee the actual construction and installation are in accordance with approved plans for public streets, public roads, drainage structures, and public utilities.

(2) The names and addresses of each adjoining landowner and utility subject to the notice as provided in subsection (b).

(3) A permit fee, which shall not exceed twenty-five dollars (\$25).

(b) No proposed plat shall be approved or disapproved by the county commission without first being reviewed by the county engineer or his or her designee. Following the review, the county engineer or his or her designee shall certify to the commission whether the proposed plat meets the county's regulations. If the proposed plat meets the regulations, it shall be approved by the commission. Should the proposed plat be determined by the county engineer to be deficient in any regard, the county engineer shall detail the deficiency to the county commission along with a recommendation that it be disapproved. Notice of the recommendation of the engineer shall be sent to the owner or developer whose name and address appears on the submitted proposed plat by registered or certified mail at least 10 days before the recommendation shall be presented to the county commission for action. A similar notice shall be mailed to the owners of land immediately adjoining the platted land as their names appear upon the plats in the office of the county tax assessor and their addresses appear in the directory of the county or on the tax records of the county and to each utility affected thereby. Each utility notified in writing by the commission shall be given at least 10 days to review the proposed plat and submit a written report to the commission as to whether all provisions affecting the service to be provided by the utility are reasonable and adequate. If any utility affected by the proposed plat is not properly notified then the approval or disapproval by the county commission shall not be valid until the affected utility has been given at least 10 days' notice prior to such approval or disapproval as provided by this subsection.

(c) In addition to the foregoing, once the owner or developer of all proposed subdivisions or proposed additions to existing subdivisions of land situated outside the corporate limits of

any municipality in the county has met all requirements of the county's regulations, he or she shall submit the final plat of the developed subdivision or addition to existing subdivision to the county engineer for signature verifying that the subdivision or addition to existing subdivision meets the county's regulations. After the final plat has been signed by the county engineer, it shall be filed for record or received for filing in the office of the judge of probate. Subject to the penalties set out in Section 11-24-3, it shall be a violation of this chapter for the developer to file or to have filed any plat, deed, property description, or document of property transfer without full compliance with this section.

(d) Notwithstanding the provisions of subsections (a), (b), and (c), this section shall not apply to the sale, deed, or transfer of land by the owner to an immediate family member, except that, in the event that there is any sale, deed, or transfer of land by the owner or an immediate family member to someone other than an immediate family member, this chapter shall then apply to any subdivision of property as defined in subdivision (4) of subsection (a) of Section 11-24-1.

(Acts 1979, No. 79-553, p. 1002, §2; Acts 1997, No. 97-422, p. 718, §1; Act 2006-227, §1.)

Section 11-24-3

Fines; injunctions; inspections; enforcement of chapter.

(a) Any owner or developer failing to comply with the permitting requirement or otherwise violating this chapter or any rule or regulation made pursuant to this chapter shall be fined one thousand dollars (\$1,000) per lot that has been sold, offered for sale, transferred, or leased to the public.

(b) In the event that the developer or owner fails to comply with this chapter, the county commission shall have the right to enjoin action of the developer or owner by a civil action for the injunction brought in any court of competent jurisdiction or, in the event that work on the subdivision has been completed, to bring action to compel the developer or owner to comply with this chapter. In addition to injunction, the county commission may recover the penalty as provided by this section in any court of competent jurisdiction.

(c) The county commission may employ inspectors and may request the county license inspector to see that its rules and regulations are not violated and that the plans and specifications for the minimum size of lots, the planning and construction of public streets, public roads, and drainage structures, and the placement of public utilities are not in conflict with the rules and regulations of the county. The county commission may charge inspection fees, not to exceed actual costs, to be paid by the owners of the property inspected.

(d) This chapter may be enforced by the county license inspector under Section 40-12-10, including issuing citations as provided in subsection (j) of Section 40-12-10 for failure to properly obtain the permit to develop required pursuant to subsection (a) of Section 11-24-2. The license inspector may issue subsequent citations for failure to properly obtain a permit to

develop if, after 30 days following the issuance of the previous citation for the same violation, the owner or developer of the subdivision has not made proper application for a permit pursuant to the requirements of this chapter. The applicable fines set out in subsection (a) shall be doubled and separately assessed against the owner or developer of the subdivision for each subsequent citation issued by the license inspector as provided herein.

(Acts 1979, No. 79-553, p. 1002, §3; Acts 1997, No. 97-422, p. 718, §1; Act 2006-227, §1.)

Section 11-24-4

Chapter not to impair utilities right of eminent domain, etc.

This chapter shall not be construed to impair the right of eminent domain granted heretofore or hereafter by the laws of this state to utilities, whether public or private, or their right to exercise authority conferred by statutes, franchises, certificates of convenience and necessity, licenses or easements.

(Acts 1979, No. 79-553, p. 1002, §4.)

Section 11-24-5

No jurisdiction within that of organized municipal planning commission.

No county shall exercise jurisdiction under provisions of this chapter within the jurisdiction of any municipal planning commission presently organized and functional or which shall become organized and functional within six months of the date the county assumes such jurisdiction by publishing and adopting notice thereof.

(Acts 1979, No. 79-553, p. 1002, §5.)

Section 11-24-6

County and municipality agreement as to exercise of jurisdiction.

It is the intent of the legislature that all proposed subdivisions be subject to regulation, and counties and municipalities affected by provisions of this chapter shall have authority to reach and publish agreement as to exercise of jurisdictional authority over proposed subdivisions, which agreement shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county and affected municipality and such agreement shall thereafter have the force and effect of law.

(Acts 1979, No. 79-553, p. 1002, §6.)

Section 11-24-7

Chapter cumulative; not to repeal any local laws.

The provisions of this chapter are cumulative and shall not repeal any local law or general law of local application granting similar or additional duties and authority to any county commission.

(Acts 1979, No. 79-553, p. 1002, §7.)

Alabama Legislative Act 2001-562

HB888

34443-2

By Representative Ford (J) (N & P)

RFD: Local Legislation

First Read: 24-APR-2001

HB888

Enrolled, An Act,

Relating to Macon County; to create the Macon County Planning Commission; to provide for the organization, membership, powers, personnel, jurisdiction, and financial and legal status of the planning commission; to authorize the planning commission to make subdivision regulations, a master plan, and to adopt zoning regulations for the development of Macon County outside the corporate limits of any municipality; to grant the planning commission power to zone over certain areas within the county and provide a procedure for the amendment of zoning regulations; to prohibit zoning regulations from being retroactive; to provide remedies for the enforcement of the provisions of this act; and to provide exceptions to the zoning regulations and for appeals from the decisions of the planning commission.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. There is hereby created a Planning Commission for Macon County, Alabama, which shall be appointed as provided by this act and shall have responsibilities and duties as provided by this act. The planning commission shall be known as the Macon County Planning Commission.

Section 2. The planning commission shall be composed of seven members, each of whom shall be a qualified elector in and an actual resident of Macon County. The Macon County Commission may appoint as one of the seven members a person engaged in the sale of real estate to serve on the planning commission. All members shall be appointed by the Macon County Commission, and shall serve at the pleasure of the Macon County Commission. Each member shall serve a term of six years or until a successor is duly appointed and qualified. Prior to taking office each member shall subscribe to an oath as provided by law for public officials and the same shall be recorded in the Office of the Judge of Probate of Macon County. The original members of the planning commission shall draw lots to determine the period of time each is to serve and the terms of two shall expire two years from the date of the organization of the planning commission; the terms of two others shall expire four years from the date of the organization of the planning commission; and the terms of the remaining three shall expire six years from the date of the organization of the planning commission. In the event of a vacancy on the planning commission, the vacancy shall be filled as in the case of the original appointment. All members shall be reimbursed reasonable and necessary expenses incurred and may be paid an expense allowance by the county commission not to

exceed actual expenses. Members shall hold no other county office and expenses of members shall be paid from the General Fund of Macon County.

Section 3. The jurisdiction of the commission shall extend to all areas of the county outside the boundaries of municipal corporations, unless a municipality expressly requests by resolution to have the jurisdiction of the planning commission extend into its corporate area.

Section 4. The commission shall elect its chairman and create and fill such other offices as it may determine. The term of the chairman shall be for one year, with eligibility for reelection. The commission shall normally hold at least one regular meeting each month. It shall adopt bylaws for the transaction of business and shall keep a record of its resolutions and transactions of business, all of which shall be a public record.

Section 5. The county commission may appoint, promote, demote, and remove employees of the planning commission as it deems necessary. The county commission may also contract with county or city planners, engineers, architects, and other consultants and with any local, state, or federal agency for such services as the planning commission may require. The county commission may cooperate with and accept funds from federal, state, and local public or semi-public agencies, private individuals or corporations, and may expend such funds and carry out such cooperative undertakings and contracts for necessary planning studies. The expenditures of the planning commission, exclusive of gifts, grants, or contract receipts, shall be within the amounts appropriated for the purposes of the planning commission by the county commission.

Section 6. It shall be the function and duty of the planning commission to make and maintain in an up-to-date manner a master plan of various areas of the county as deemed necessary by the planning commission and to adopt with the approval of the county commission appropriate zoning regulations for the physical development of Macon County; provided, however, that the adoption of a master plan shall not be deemed a prerequisite to the administration and enforcement of the zoning regulations. The plan and regulations with the accompanying maps, plats, charts, and descriptive material shall show the planning commission's recommendations for the use and development of the territory of the county. The zoning regulations shall also include a zoning plan for selected areas for the control of the height, area, bulk, location, and use of buildings and land. As the whole master plan and preparation of zoning regulations progresses, the planning commission may from time to time adopt and publish a part or parts thereof, any part to cover one or more major sections or divisions of the county. The planning commission may from time to time amend, extend, or add to the plan or regulations as provided in this act. Nothing in this act shall be construed to impair the right of eminent domain conferred on railroads and utilities, both public and private, or their right to construct, use, and maintain structures reasonably required in the public service or their right to exercise authority conferred by statutes, franchises, certificates of convenience and necessity, licenses, easements, or conveyances.

Section 7.

- (a) In the preparation of the master plan and zoning regulations, the planning commission shall make careful and comprehensive surveys and studies of the present conditions

existing within the county. It shall give due regard to existing agricultural uses to land by virtue of its fertility, proximity to water supplies, and other geographical features particularly suited to agricultural uses. It shall also give due consideration to neighboring municipalities, towns, and villages, to the growth of subdivisions, to the general population growth of the county, and make adequate provision for traffic, recreational areas and industry, and other public requirements.

- (b) The master plan and zoning regulations should be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the county. The regulations shall be made, in accordance with present and future needs, to best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development. The plan and regulations should also promote safety from fire, flood, and other dangers and well as the healthful and convenient distribution of population and the wise and efficient expenditure of public funds.
- (c) The plan shall be a public record, but its purpose and effect shall be to aid the planning commission in the performance of its duties, including making recommendations to the county commission and assisting and cooperating with federal, state, and local agencies so as to achieve coordinated, adjusted, and harmonious development throughout Macon County.

Section 8. Except where jurisdiction has been obtained by the planning commission pursuant to Section 3, the master plan and zoning regulations provided by the planning commission shall not be applicable in any beat of Macon County until the majority of the qualified electors of the beat voting in a special election have signified by their vote that they desire the authority of the planning commission, its master plan, and the zoning regulations to apply in their beat. The election must be held not less than 30 or more than 45 days after a petition seeking the election is filed in the office of the judge of probate. The petition shall be signed by at least 25 percent of the electors who reside within the beat and who own real estate located within the beat. Notice of the election shall be given by three weeks publication and posting notice in two public places within the beat. The cost of the election shall be paid from the general fund of the county. The ballot shall be worded to give the voter the opportunity to vote either "Yes" or "No" as to whether the voter wishes the authority of the planning commission, its master plan, and the zoning regulations to apply to the beat. Only those qualified electors residing outside of the municipal limits shall be permitted to vote or sign a petition calling for the election in the beat concerned. If a statement to this fact is not on the ballot and the petition, the ballot and petition are invalid. Boundaries of the established area approved for zoning by the qualified electors shall not be changed. Elections for the same beat shall not be held any more often than every 548 days.

Section 9. The planning commission with the approval of the county commission shall adopt a code of regulations applicable to the subdivision of land and plats of subdivisions shall not, after the adoption of such code of regulations, be accepted for filing and recording in the office of the judge of probate until they have been approved in a manner to be designated by

the planning commission. The provisions of this section shall apply within the jurisdiction of the commission as specified in Section 3 of this act.

Section 10. For the purpose of promoting the health, safety, morals, convenience, order, prosperity, and general welfare of the county, the planning commission with the approval of the county commission is hereby empowered to divide the portion of the county within its zoning jurisdiction into districts. The districts shall be of such number, shape, and area as may be found best suited to carry out the purposes of this act. The planning commission, with the approval of the county commission shall provide for standards, within districts, relating to the use of the land and the types and kinds of structures that may be erected in the districts, and all home remodeling or modification in such districts. Such provision shall be made in accordance with a comprehensive plan for the area involved and shall be designed to lessen congestion in the streets and highways; to prevent the overcrowding of land; to avoid undue mixed use of land; to facilitate the adequate provision of transportation, water supply, sewerage, schools, parks, and other public requirements. Such provision shall be made with reasonable consideration, among other things, of the character of the land and district and its peculiar suitability for particular uses and with a view of promoting desirable living conditions, sustaining the stability of neighborhoods, protecting property against blight and depreciation, securing economy in governmental expenditures, conserving the value of buildings; and encouraging the most appropriate use of land and of buildings and structures throughout the jurisdiction of the planning commission. For the purpose of providing for the division of the territory into districts, consonant with the conditions provided in this section, the planning commission may make a single zoning plan for all the territory of the area which lies within its jurisdiction or may make and certify separate and successive zoning plans for parts of such territory which it deems suitable for urban or suburban development or which for other reasons it deems to have appropriate territorial unity for a zoning plan. Correspondingly, any zoning regulations enacted by the commission may cover and include the whole territory lying within its jurisdiction or such territory as the planning commission deems to be appropriate territorial unit for a zoning plan.

Section 11. Once zoning regulations have become applicable to a beat as provided herein, those regulations shall not be changed until the proposed change has been published for three weeks in a newspaper of general circulation within the county together with a notice stating the time and place that the change in regulations will be considered by the planning commission, and stating further that at such time and place all persons who desire shall have the opportunity to be heard in favor or in opposition to the proposed change in zoning regulations. The change must be approved by the planning commission and the county commission.

Section 12. No zoning regulation adopted by the planning commission and county commission shall change any use to which land is being made at the time the zoning regulations became applicable to any beat.

Section 13. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any subdivision is established, or land used in violation of this enactment or of any regulation made under the authority conferred by this act, the

county attorney shall initiate any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or subdivision of the land or use of the land to restrain, correct, or abate such violation, or to prevent the occupancy of any such building, structure, subdivision or land or to prevent any illegal act, conduct, business, or misuse in or upon any premises regulated under the authority conferred by this act. If the county attorney is successful in any proceedings, all court costs and reasonable attorney fees for time spent by the county attorney shall be assessed against the losing violator.

Section 14. The planning commission may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the zoning regulations in harmony with its general purposes and interests and in accordance with general or specific rules adopted by the planning commission. Anyone wishing to appeal from an existing zoning regulation may file a written petition stating the basis for their appeal whereupon the planning commission shall fix a date for a hearing on the appeal, giving notice as the planning commission deems appropriate. With regard to such hearings, the planning commission shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the planning commission or official in the enforcement of this act or any regulation adopted pursuant thereto.
- (2) To hear and decide requests for special exceptions to the term or provisions of the regulation upon which the planning commission is required to pass.
- (3) To authorize upon appeal in special cases a variance from the yard, open space, land use, bulk, and height requirements of the regulation as will not be contrary to the public interest where, owing to special conditions of the building site or land, a literal enforcement of the provisions of the regulation will result in unnecessary hardship, all in order that the spirit of the regulations shall be observed and substantial justice done.

Section 15. Any party aggrieved by any final judgment or decision of the planning commission may, within 15 days, request a review of the record by a five-member review board appointed by the Macon County Commission, one member being the county planning director, one the county public works director, two experts in related fields of planning, and one other member. This review board is empowered to require that the planning commission reconsider its earlier decision. If such reconsideration is ordered, the planning commission may reconsider the previous record and any additional material which the planning commission considers relevant. If upon reconsideration by the planning commission, any party remains aggrieved by the final judgment of the planning commission, they may, within 30 days, appeal to the circuit court as provided herein. If no review by the five-member review board is requested by any party aggrieved by any final judgment or decision of the commission, or reconsideration is not granted by the five-member review board, then the aggrieved party may, within 30 days, appeal to the circuit court. The appeal shall specify the

judgment or decision from which the appeal is taken and shall rest upon the contention that such zoning regulations or subdivision regulations in question are unreasonable, discriminatory, unconstitutional, or otherwise invalid, and such appeal shall be filed with and addressed to the Circuit Court of Macon County. The planning commission shall cause a transcript of the proceedings in the case to be certified to the circuit court.

Section 16. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 17. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 01-MAY-2001.

Greg Pappas
Clerk

Senate 10-MAY-2001 Passed

APPENDIX V
ACCEPTANCE OF ROADS AND STREETS FOR COUNTY MAINTENANCE

All streets and roads accepted for maintenance by the County Commission must be accepted by a separate resolution of the County Commission. Acceptance of streets and roads for maintenance by the County Commission will be as follows:

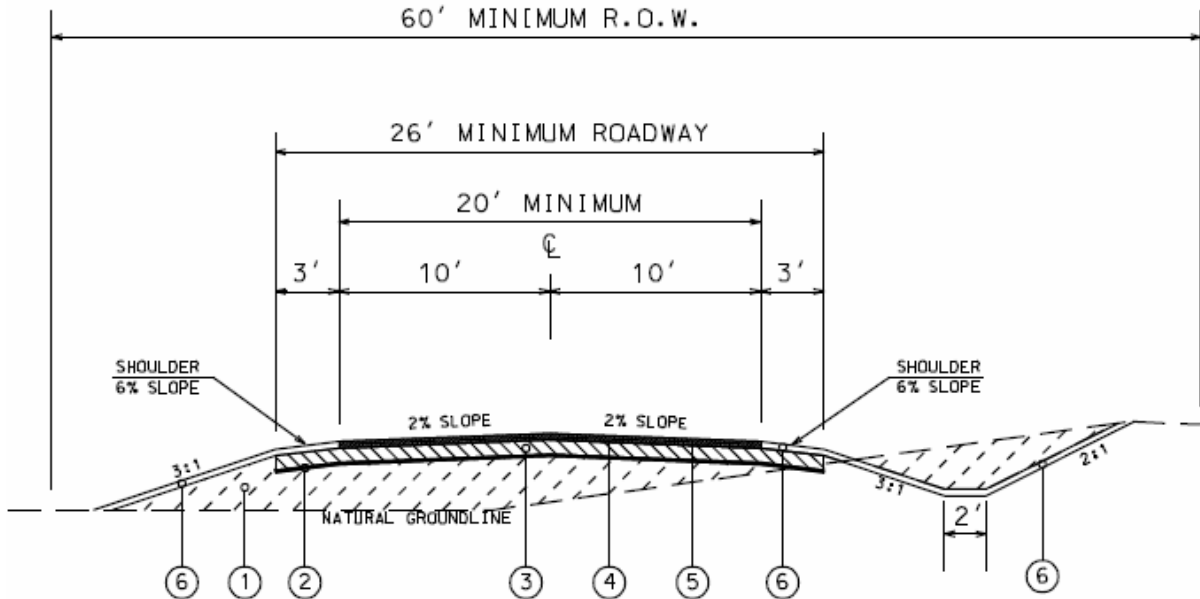
- (A) If all improvements are completed at time of Final Plat Approval, roads and streets will be accepted at the time of Final Plat Approval by the County Commission.
- (B) If improvements are to be completed under Subdivision Improvement Bond as described in Section 7-1-1, roads and streets will be accepted after all improvements are completed and the release of the improvement surety bond is authorized in accordance with Section 7-3.

The Owner/Developer and Contractor shall execute an AGREEMENT GUARANTY STATEMENT as shown in Appendix II prior to acceptance of roads and streets in any subdivision.

The County Commission may, by majority vote, accept other roads and streets if it is determined to be in the public interest and if they do not circumvent the intent of these regulations. Acceptance of roads and streets other than under these regulations shall be considered on a case by case basis.

APPENDIX VI
TYPICAL SECTIONS

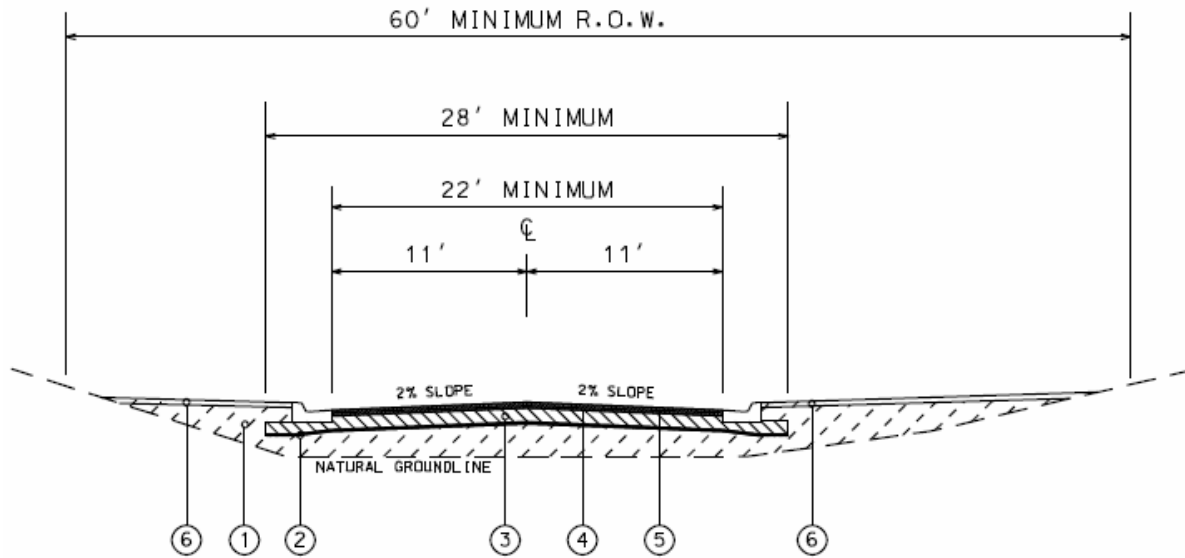
TYPICAL SECTION



NOTE: SHOULDERS AND FRONT SLOPES SHALL BE GRASSED

- ① APPROVED BORROW MATERIAL
- ② ROADBED PROCESSING
- ③ 6" MINIMUM COMPACTED CRUSHED AGGREGATE BASE (FULL WIDTH OF ROADWAY)
- ④ BITUMINOUS CONCRETE PLANT MIX, BINDER LAYER TYPE 424 B (210 LBS/SY)
- ⑤ BITUMINOUS CONCRETE PLANT MIX, WEARING SURFACE TYPE 424 (110 LBS/SY)
- ⑥ TOPSOIL

TYPICAL SECTION CURB



NOTE: SHOULDERS AND FRONT SLOPES SHALL BE GRASSED

- ① APPROVED BORROW MATERIAL
- ② ROADBED PROCESSING
- ③ 6" MINIMUM COMPACTED CRUSHED AGGREGATE BASE (FULL WIDTH OF ROADWAY)
- ④ BITUMINOUS CONCRETE PLANT MIX, BINDER LAYER TYPE 424 B (210 LBS/SY)
- ⑤ BITUMINOUS CONCRETE PLANT MIX, WEARING SURFACE TYPE 424 (110 LBS/SY)
- ⑥ TOPSOIL

**APPENDIX VII
MACON COUNTY
SCHEDULE OF FEES**

