

**SUBDIVISION REGULATIONS**  
  
of the  
  
**CITY OF BIRMINGHAM, ALABAMA**

As Amended by the  
**THE BIRMINGHAM PLANNING COMMISSION**

October 5, 2011

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**SUBDIVISION REGULATIONS  
of the  
CITY OF BIRMINGHAM, ALABAMA**

**ARTICLE 1 - GENERAL PROVISIONS**

**1.1 TITLE.** These regulations shall hereafter be known, cited and referred to as the *Subdivision Regulations of the City of Birmingham, Alabama*.

**1.2 PURPOSE.** These regulations are adopted for the following purposes:

- A. To protect and provide for the public health, safety, prosperity and general welfare of the municipality.
- B. To guide the future growth and orderly development of the municipality in an efficient and economic manner, in accordance with the Comprehensive Plan for physical development, including, but not limited to, the future Land Use Plan, Community Facilities Plan, Capital Improvements Plan, Major Streets Plan, Bicycle and Pedestrian Plan and related plans and programs of the City.
- C. To provide for adequate light, air, and privacy; to secure safety from fire, accidents, flood, and other threats to life and property; and to prevent overcrowding of the land and undue congestion of population.
- D. To protect and conserve the value of land, buildings and improvements, neighborhood amenities and the natural environment in all parts of the municipality; and to minimize conflicts among varied uses of land, buildings and the transportation network.
- E. To provide the most beneficial and harmonious relationship between the uses of land and buildings and circulation of traffic throughout the municipality, in particular avoiding congestion on the streets, and providing safe bikeways and pedestrian routes appropriate to the surrounding building densities and land use patterns.
- F. To promote the most suitable layout and use of land, according to its capacity for development, and susceptibility to erosion, subsidence or environmental risks; to protect life and property from injury or damage caused by flooding, unstable slopes, and other natural and man-made hazards; to preserve beneficial open space and greenways, and the natural character of the land.
- G. To establish reasonable standards of design and procedures for subdivisions; to ensure that suitable roadways, pathways and utilities are constructed in an efficient manner, so as to minimize costs of public servicing and maintenance; and to ensure proper legal descriptions and monumenting of subdivided land.
- H. To ensure that public services, such as police, fire protection, and facilities, including schools and parks, as well as water, sewers, varied utilities and related infrastructure are available within a timely period, and will have sufficient capacity to serve the proposed subdivision.

- I. To provide for safe and effective traffic circulation, with interconnected streets, as well as appropriate accessibility for the surrounding neighborhoods.
- J. To prevent the pollution of air, streams, and ponds; to ensure the adequacy of drainage facilities; to safeguard groundwater and water tables; and to encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and special character of each community.
- K. To preserve the natural beauty and distinctive topography of the municipality and to ensure the most appropriate and compatible development with regard to these features.
- L. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of development as established in the zoning ordinance.
- M. To remedy problems associated with partial, incomplete or inappropriately subdivided lands, including isolated, inaccessible or substandard lots, rights-of-way, or lacking site or public improvements, particularly affecting property originally sold or subdivided prior to the effective date of these regulations.

**1.3 AUTHORITY.** Under the provisions of *Title 11, Chapter 52 of the Code of Alabama 1975*, as amended, which provisions are hereby made a part hereof, these regulations governing the subdivisions of land are hereby amended by the Birmingham Planning Commission, on October 5, 2011, which shall be published as an ordinance, and shall be certified to the Probate Judge of Jefferson County, and the Probate Judge of Shelby County, Alabama, and to the Clerk of the City of Birmingham.

**1.4 AUTHORITY OF THE SUBDIVISION COMMITTEE.** In all matters properly and legally before it relating to subdivision regulations, the Subdivision Committee shall have all the powers, duties and restrictions imposed or conferred by law and these regulations on the Planning Commission and the words “Subdivision Committee” shall be understood wherever the words “Planning Commission” shall appear in these regulations, except where issues may be appealed or referred for initial decision to the full Planning Commission.

**1.5 JURISDICTION AND APPLICABILITY.**

- A. Upon adoption and publication as required by law, these updated regulations shall govern every subdivision of land made within the corporate limits of the City of Birmingham, Alabama, as now or hereafter established. This amends and supplements the original *Subdivision Regulations, City of Birmingham, Alabama* enacted on January 1, 1956, and amended in June, 1962, and as further amended, which are hereby repealed and replaced on the effective date of adoption of these regulations.

- B. Any owner of land within the limits of said subdivision jurisdiction wishing to subdivide land shall submit to the Subdivision Committee a plat of the subdivision which shall conform at least to the minimum requirements set forth in these regulations. No plat of a subdivision lying within such territory, or part thereof, shall be filed or recorded in the office of the Probate Judge of Jefferson County or of Shelby County, depending on location of the property, and no subdivider shall proceed with improvements of lots in a subdivision, until such plat has been approved by the Subdivision Committee.
- C. In accordance with *Title 35, Chapter 2, Section 52 of the Code of Alabama 1975*, as amended, it shall be the duty of the probate judge in every county to decline to receive for record in his office any map or plat of lands, in any City having more than 10,000 inhabitants, which include mapped streets, alleys or public ways unless said plat shall have noted thereon the approval of the governing body and the City Engineer.

**1.6 INTERPRETATION, CONFLICT AND SEVERABILITY.**

- A. The provisions of these regulations shall be held to be the minimum requirements for the promotion of public health, safety and general welfare, and shall be construed broadly in support of the purposes for which they are adopted. More stringent provisions may be applied where it is demonstrated that different circumstances require higher standards to achieve such protections.
- B. Where there may be any conflict among the provisions herein, or where any provision of these regulations may impose different restrictions from those of any other applicable provision of law, the more restrictive provision, imposing higher standards, shall govern.
- C. Should any section or provision of these regulations be for any reason held void or invalid, it shall not affect the validity of any other section or provision hereof which is not itself void or invalid.

**1.7 AMENDMENTS.** The Planning Commission may from time to time adopt amendments that will tend to increase the effectiveness of these regulations or expedite the approval of subdivision plats. These regulations and amendments thereto may be changed or amended by the Planning Commission after a public hearing by giving due notice as required by law.

**1.8 ENFORCEMENT, VIOLATIONS AND PENALTIES.**

- A. It shall be the duty of the City Engineer to oversee the design and construction of all public facilities, utilities and site improvements, and the Director to administer all platting requirements; each to enforce all requirements under their jurisdiction, and to refer any violations of these regulations to the City Attorney for further legal disposition, if necessary.
- B. In accordance with *Title 11, Chapter 52, Section 33 Code of Alabama* as amended, the City of Birmingham may take legal action against any owner or agent of the owner of any land within this jurisdiction that agrees to transfer or sell any part of the parcel, whether by reference to a proposed subdivision or a metes and bounds description, before and until a final plat of the subdivision has been approved by the

Subdivision Committee and recorded in the Probate Court of the County in which the property is located.

- C. No permit shall be issued for the construction of any building, structure, public improvement or site preparation located on a lot or plat subdivided or sold in violation of these regulations, nor shall the municipality have any obligation to issue certificates of occupancy or to extend utility services for such illegal properties.
- D. Any owner or agent thereof found in violation of these regulations may be punished by a fine of up to five-hundred dollars or by imprisonment in the city jail for up to one-hundred eighty days, or both, for each lot transferred, in accord with the *City of Birmingham General City Code 1-1-6*. Each day of violation constitutes a separate offense.
- E. In addition, civil enforcement proceedings may be taken in law or in equity to prevent any violation or unlawful construction, to recover damages, to restrain, correct or abate a violation, and to prevent illegal occupancy or use of a building, structure or premises involved.

End of Article

## ARTICLE 2 - DEFINITIONS

### 2.1 USAGE.

- A. For the purpose of these regulations, certain words, terms and phrases shall be used, interpreted and defined as set forth in these regulations. Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning, zoning and engineering practice.
- B. 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; "shall" and "will" are always mandatory and "may" is permissive.

### 2.2 WORDS AND TERMS DEFINED.

**AASHTO.** American Association of State Highway and Transportation Officials.

**ADA.** Americans with Disabilities Act.

**Adjacent Property Owner.** Owner, as listed in the county tax assessor's office, of property which touches the subject property at any point, or if their boundaries would meet in the absence of intervening right-of-way.

**Alley.** A public right-of-way providing secondary access to the back or side of a premises, that has primary frontage on a street.

**Applicant.** The owner of land proposed to be subdivided, or the owners' authorized agent or representative. Written consent is required from all owners of the premises.

**Architect.** A registered professional architect in good standing with the Alabama Board for Registration of Architects, and licensed to do business in the City of Birmingham.

**Bicycle Plan.** Approved routes, on-road and off-road, designated for bicycle facilities such as bicycle lanes, shared vehicular lanes, and separate paths, which are linked into a safe and convenient, interconnected bicycle mode of transportation. Such facilities may include but are not limited to signs, pavement markings and bicycle actuated traffic signals.

**Block.** A tract of land bounded by public streets, private roads, railroads, utility rights-of-way or other legal or physical barriers.

**Building.** Any structure having a roof supported by columns, enclosed by walls, designed for the support, shelter or protection of, or occupancy by, persons, animals, chattels, movable property or equipment, or for varied uses or activities.

**Building Setback.** The line within a property which defines a minimum (and maximum when applicable) horizontal distance to be provided between a building and the adjacent property line.

**City.** The City of Birmingham, Alabama, a municipal corporation.

**City Agency.** Any office under the Mayor, City Council, administrative departments, authorities, boards, commissions or courts of the City of Birmingham, Alabama.

**City Clerk.** The duly designated Clerk of the City of Birmingham, Alabama.

**City Council.** The chief legislative body of the City of Birmingham, Alabama.

**City Engineer.** The duly appointed City Engineer for the City of Birmingham, Alabama, who is a licensed professional engineer, qualified in civil engineering, and in good standing with the Alabama State Board of Licensure for Professional Engineers and Land Surveyors.

**Cluster Design.** Development allowing concentrated construction in more suitable locations in order to preserve usable open space and recreational amenities on a property, through reductions in street lengths and lot sizes, but entailing no increase in average density overall.

**Commercial and Industrial Service Streets.** Any street that has a primary purpose of providing access to either commercial or industrial development.

**Common Areas.** All portions of real estate that are designated for joint use or undivided ownership in perpetuity, which are subject to covenants and restrictions under the control of a private trust, a non-profit group, board, or owners association, of separate lands, lots or units within a subdivision.

**Common Elements.** A part or parts of the condominium property as set forth in the declaration in which all of the unit owners have an undivided interest.

**Common Ownership Subdivision.** A subdivision of land containing property held in common ownership by a property owners association, that may include privately maintained access.

**Complete Streets.** A set of design principles that accommodates all users (motorists, pedestrians, bicyclists and transit riders) when designing streets.

**Comprehensive Plan.** The official comprehensive plan for the physical development of the City of Birmingham, adopted by the Birmingham Planning Commission, as authorized by *Title 11, Chapter 52 of the Code of Alabama 1975*, as amended. Based on a comprehensive survey of present conditions and future needs for harmonious and economical growth, it includes various geographic and functional elements, and implementation programs, such as the Zoning Ordinance, Subdivision Regulations, Major Street Plan, Public Facilities Plan and Land Use Plan, as well as Housing Plans, Urban Renewal Plans, Economic Development Plans and the Capital Improvements Program.

**Condominium.** The form of ownership of real or personal property or a combination thereof under a declaration providing for ownership of units of the property by one or

more owners. Such units may consist of private elements together with an undivided interest in common and limited common elements.

**Conservation Easement.** A legal interest in real property imposing limitations or affirmative obligations on owners, their heirs, assigns and successors, protecting natural, scenic or environmental values, and assuring availability for agricultural, silvicultural, recreational or open space uses, protecting or enhancing resources, habitat, air and water quality, or preserving historical, architectural, archeological or cultural aspects of the land.

**Cul-de-sac.** A short local street with only one outlet open for traffic, and having a circular or other appropriate terminal area on the closed end for the convenient reversal of vehicular traffic. The length is measured from the center of its turnaround to the point where its centerline crosses the centerline of the nearest intersecting multiple outlet or non-dead ended street.

**Developer.** The owner of land proposed to be subdivided or developed or his/her authorized representative. Persons acting on behalf of land owners shall provide written authorization from all land owners to act on his/her behalf.

**Detention Facility.** A structure designed to capture and store excess stormwater temporarily, and which will drain completely at a predetermined rate.

**Director.** The Director of the Planning, Engineering and Permits Department of the City of Birmingham, or his designee, who acts as the secretary for the Birmingham Planning Commission, and maintains all official records for the Commission and its Committees.

**Easement.** A right given by the property owner for another person or entity to use a designated portion of property, described by metes and bounds or a plat, only for specific purposes, to run with the land, as recorded in probate court.

**Engineer.** A licensed professional engineer, qualified in civil engineering, in good standing with the Alabama State Board of Licensure for Professional Engineers and Land Surveyors, and licensed to do business in the City of Birmingham.

**Exceptional Circumstances.** Federal Highway Administration requirements for “due consideration” of bicycle and pedestrian facilities can not be exempted unless there are exceptional circumstances: 1) roadway use prohibits bicyclists and pedestrians; 2) cost of bicycle or pedestrian facilities would be excessively disproportionate to the need or probable use; or 3) sparse population or other factors indicate an absence of existing or future needs.

**Exceptions.** Proposals of alternative means of meeting the intent of specific subsections pertaining to design standards in Article 5 and related engineering requirements of these regulations, which may be considered by the Subdivision Committee in accord with Article 7 herein.

**Excessively Disproportionate.** Bicycle or pedestrian mode cost exceeding twenty percent of the cost of the large transportation project.

**FEMA.** The Federal Emergency Management Agency.

**Final Plat.** A subdivision plat proposing to create new lots from a tract of land, parcels, or other lots, meeting the requirements of these regulations, to be considered for approval by the Subdivision Committee, and in form for recording in the office of the probate judge of the county where the property is located.

**Grade.** The slope of a road, street or other public way expressed in percentage terms, measured as the vertical change divided by the horizontal distance. The average level of the finished ground surface adjacent to the exterior wall of a building (for zoning purposes).

**Grading.** Any act by which earth, sand, rock or similar material is cleared, stripped, stockpiled, excavated, scarified, quarried, removed or used as fill, or any combination thereof.

**Impervious Man-Made Surface.** A hard surface which causes water to run off more rapidly or in greater quantities than under natural conditions, before development occurred.

**Intersection Boundary Line.** The line used to measure distance between an intersection and either commercial or residential driveways is a clearly marked stop or yield line. If none exist, then the near side of the crosswalk is the intersection boundary line. If neither of those do not exist, then the edge of pavement is the intersection boundary line.

**Landslide.** The downward movement of earth, rock or artificial material on a slope, whether by slow soil creep or sudden avalanche.

**Lot.** A plot, unit, or other portion of land in a subdivision or plat of land, having its principal frontage on a street, separated from other such portions by description on a record of survey map, for the purpose of ownership, sale, occupancy, use, construction or development, separate from other lands.

**Lot of Record.** A lot in a subdivision that has been recorded in the office of the probate judge in the county where it is located prior to the adoption of subdivision regulations. If a portion of a lot or parcel has been conveyed prior to adoption of subdivision regulations, the remaining portion of such lot shall also be considered a lot of record.

**Maintenance Bond.** Financial security filed by the applicant with the City to assure the structural integrity of all required improvements and their proper functioning for an initial period of time.

**Major Street Plan.** The official major street plan of the City of Birmingham adopted, amended and recorded in accordance with the provisions of *Title 11, Chapter 52 of the Code of Alabama 1975*, as amended.

**Major Subdivision.** Any subdivision determined to be of a complex nature by the City Engineer or Director that would require preliminary plan approval.

**Master Plan.** The official comprehensive plan for the City of Birmingham, Alabama.

**Minor Subdivision.** A small subdivision that is of such small size or contains so few lots as to present no engineering or planning problems, involving no road, sewer, utility or similar public improvements, but maintaining a density and lot sizes compatible with the surrounding vicinity.

**Nonconforming Lot.** A lot or parcel which does not conform to current zoning or subdivision regulations.

**Not-for-Profit Organization.** A group organized for nonprofit purposes, where no part of income or profit is distributable to its members, directors and officers, in conformity with all provisions of the *Alabama Nonprofit Corporation Act, Title 10, Chapter 3A, of the 1975 Code of Alabama*, as amended, or the *Alabama Unincorporated Nonprofit Association Act, Title 10, Chapter 3B, of the 1975 Code of Alabama*, as amended.

**Open Space.** Land not covered by man-made impermeable surfaces, parking or buildings, other than recreational structures, pools, or stormwater facilities, which may be landscaped or preserved in a natural state for private use of owners or guests, or for public access as may be required by the provisions of these regulations or the zoning ordinance.

**Parcel of land.** An ownership of real property identified by a county tax assessor for the purpose of collecting ad valorem taxes.

**Permeable Surface.** A land area of porous natural or prepared material which allows a high percentage of stormwater absorption.

**Planning Commission.** The Birmingham Planning Commission, a legal agency of the City, authorized to approve the City Comprehensive Plan, Major Street Plan, recommend Comprehensive Zoning Plan and amendments, to adopt Subdivision Regulations and approve subdivisions proposals, in accord with state enabling legislation.

**Preliminary Plan.** A tentative plan of a proposed subdivision, indicating the layout of lots, access and any public improvements, designed for presentation to the Subdivision Committee for its consideration.

**Probate Judge.** The Judge of Probate for a county court in Alabama, where property maps and legal transactions are recorded.

**Public Access Development.** A cluster subdivision which makes usable open space available for public use in exchange for proportionate increases in development density in a zoning district approved by the governing body.

**Reservation.** A lot, tract of land, or an easement held for future acquisition by a public agency, or by a nonprofit organization acting in the public interest, normally for a stated period of time.

**Retention Facility.** A structure designed to capture and store excess stormwater runoff for an indefinite amount of time.

**Right-of-Way.** A strip of land, air space, or subsurface area, separate from any private lots or separate ownership, occupied or intended to be used as a street, transit line, pedestrian walkway or bikeway, railroad, accessway, alley, watercourse, drainageway or other public use or utilities, accepted and maintained by the governing body, agency, authority or other entity having jurisdiction or owning such rights.

**Roadway.** That paved portion of a street right-of-way or roadway easement situated between the regularly established curb lines, or that part of the street or alley devoted to vehicular traffic.

**Roundabout.** A design to channel approximately equal volumes of cross traffic at an intersection into a counter clockwise direction around a central island, so that each vehicle must yield before entering, and only exits by turning to the right.

**Sidewalk Area.** That portion of a street or other right-of-way not included in the roadway, and devoted in whole or in part to pedestrian traffic.

**Street.** A public right-of-way for movement of motor vehicles, pedestrians or non-motorized traffic, whether identified as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however designated.

#### **Street Classifications:**

**Limited Access Highway.** A freeway or expressway providing a trafficway for the highest volume, high-speed through traffic, to which owners or occupants of abutting property or lands, and the general public, or other persons, have no legal right of access into or from, except at such points and in such manner as may be allowed by the public authority having jurisdiction over such trafficway.

**Major Arterial.** A street or highway of great continuity designed to accommodate high traffic volumes and longer trip desires. Serving abutting land uses is subordinate to provisions for heavy traffic movements. Major arterials carry substantial portions of vehicular trips entering, leaving, or bypassing the urban area.

**Minor Arterial.** A street or highway of considerable continuity interconnecting with and augmenting the principle arterial system, providing service to medium length trips at a moderate level of mobility. These systems place more emphasis on land access, and distribute traffic to smaller geographic levels than higher capacity streets.

**Collector.** A street with moderate continuity that channels traffic between arterials, and from other collector streets to the arterial system. Such a street may support

commercial establishments and community centers along its route and may carry relatively high traffic volumes, connecting neighborhoods and communities into the larger urban street network.

**Local.** A street not classified in a higher thoroughfare system, primarily providing right-of-way for public use, including vehicular and pedestrian access, and utilities serving abutting land, within a neighborhood. Such street offers the lowest level of mobility; with service to cut-through traffic and excessive speeds deliberately discouraged.

**Stub-out.** A short street extension in a subdivision that provides access to undeveloped adjacent land. It shall be aligned to connect with the surrounding layout and, where adjacent tracts are vacant, with the most advantageous location for future development.

**Subdivider.** Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land, acting as owner thereof, or as authorized agent of all such owners.

**Subdivision.** The division of a lot, tract of land or parcel into lots, plats, units, sites or other divisions of land for the purpose, whether immediate or future, of sale, building development or other separate use.

**Subdivision Bond.** Financial security filed by the applicant with the City to assure the acceptable completion of all required improvements by a specified time.

**Subdivision Committee.** A committee composed of five (5) members of the Planning Commission authorized to hear and decide upon applications for subdivision of land, and to advise the chief legislative body of the City on vacation of public land and new right-of-way dedications, all such actions to be taken on behalf of the Planning Commission.

**Surety.** A legally binding agreement with the City, by which a developer assures the construction of all improvements as required by these regulations.

**Surveyor.** A licensed Professional Land Surveyor, qualified in land surveying, in good standing with the Alabama State Board of Licensure for Professional Engineers and Land Surveyors, and licensed to do business in the City of Birmingham.

**Swale.** A constructed watercourse graded in earth materials with vegetation or pervious pavers.

**Tract.** Acreage which has never been subdivided before.

**Traffic Engineer.** The duly appointed Traffic Engineer for the City of Birmingham, Alabama, who is a licensed professional engineer, qualified in civil engineering, and in good standing with the Alabama State Board of Licensure for Professional Engineers and Land Surveyors.

**Unit.** The private elements of the condominium property together with the undivided interest in the common elements and limited common elements which are assigned thereto in the declaration or any amendment thereof.

**Waivers.** A waiver allows an applicant to forego compliance with a provision of these regulations, as outlined in Article 7 herein.

**Zoning Ordinance.** The Zoning Ordinance of the City of Birmingham, Alabama.

End of Article

### **ARTICLE 3 - SUBDIVISION APPROVAL PROCEDURE**

**3.1 PRE-APPLICATION REQUIREMENTS.** Prior to preparing the layout for a subdivision, the property owner or authorized agent should discuss with the staff of the Director, or designated representative, the procedure and requirements for adoption of a subdivision plat, any potential vacation or dedication of rights-of-way, needed improvements, and the general layout of streets, blocks, lots or common areas, reservation of land, easements or covenants, drainage, sewerage, fire protection, and any special topographic or physical characteristics, flood areas and other related issues, as well as availability of existing public facilities and services, including distance to schools and parks. A general concept plan should be prepared for administrative review and evaluation.

This will enable staff of the Director to expedite plat classification and routing by producing the following outcomes: 1) identify any potential deficiencies in the plat, 2) determine if the subdivision constitutes a major subdivision that would require preliminary plan approval, 3) determine if the subdivision should be presented to the Superintendent of Birmingham Schools and the Director of the Park and Recreation Board for the City of Birmingham, and 4 ) prepare staff to discuss alternative designs and optional procedures which could be available under certain situations, and advise the applicant to discuss the proposed subdivision with other officials and agencies which must eventually approve those aspects coming within their purview, such as building and fire codes, zoning, traffic, access, grading, drainage, utilities and other public facilities, services and site requirements.

**3.2 APPLICATION FOR REVIEW.** To obtain a hearing on a proposed subdivision, the subdivider shall submit all the following items to the staff of the Director at least fourteen days prior to a regular scheduled meeting of the Subdivision Committee:

- A. Five (5) copies of the preliminary plan or final plat, conforming to all provisions of Articles 4 and 5 below,
- B. Five (5) copies of a vicinity sketch, indicating nearby properties and the surrounding street pattern,
- C. List of owners of property adjoining the proposed subdivision, with names and addresses as shown in the County Tax Assessor's office,
- D. Site plan for any proposed new development, and as-built surveyor's certificate for any existing structures to remain,
- E. Signed and completed application, and, if necessary, copy of a contract signed by the owner authorizing applicant to act on his behalf,
- F. Written petition, in accord with Article 7, if any waiver, or exception from these regulations is to be requested,
- G. Application fee, and
- H. Any other supporting information or relevant documents deemed necessary by the staff of the Director.

After preliminary review of the materials submitted and consultation with the City Engineer, if the Director finds that the proposed subdivision requires coordination with the location and construction of new public facilities such as schools and parks, or may conflict with or raise questions about the need for updating or revising any portions of the Major Street Plan, future Land Use Plan, Community Facilities Plan or other elements of the City's Comprehensive Plan for future development, the initial hearing on the preliminary plan may be referred to the full Planning Commission.

The Director shall refuse to place any requested item on the agenda of the Subdivision Committee or the Planning Commission until and unless all information and material has been presented by the established deadline to verify compliance with all provisions of these regulations (or requests for specific waivers or exceptions) and the Birmingham Zoning Ordinance.

**3.3 PRELIMINARY FEES AND NOTICE.** To defray the cost of filing said subdivision, notifying interested parties, investigation of, and holding a hearing upon the proposal, the City of Birmingham will require the following fees to be paid by the subdivider at the time of filing the application for approval of the preliminary plan:

- A. \$ 5.00 per lot,
- B. \$ 10.00 per acre or portion thereof,
- C. Cost of certified mail notice to adjacent property owners, and
- D. \$ 100.00 per subdivision plat.

Notice by certified mail to the subdivider and adjacent property owners, advising of the time and place of said hearing shall be mailed not less than seven days before the scheduled public hearing.

**3.4 PRELIMINARY PLAN APPROVAL.** The Subdivision Committee may view the premises, and shall hear all information and comments by the applicant, public officials and the general public at the regularly scheduled hearing of the Subdivision Committee. Unless the subdivider agrees to, and requests in writing, an extension of time for a specified period, the Subdivision Committee shall take action to approve, approve conditionally, or disapprove such preliminary plan within thirty days of the plan being submitted to the Subdivision Committee (the date of submission being the date that the application is first presented to the Subdivision Committee). If approved conditionally, the conditions and reasons therefore shall be stated, and if necessary the Subdivision Committee may require the subdivider to submit a revised preliminary plan. If any waivers or exceptions to these regulations are granted, the reasons for such shall be specified.

If the Subdivision Committee disapproves the preliminary plan, the reasons for such action shall be stated and, if possible, recommendations made on the basis of which the proposed subdivision might be approved. Requests with insufficient information to verify compliance with any provision of these regulations constitutes grounds for disapproval. Where the applicant requests any waiver or exception, or if there is any question of compliance, particularly concerning the purposes outlined in Section 1, and the criteria for approval in Section 3.11, a development plan may be required to resolve the issues. One (1) copy of the preliminary plan as acted upon by the Subdivision Committee shall be retained in its office, one (1) copy forwarded to the City Engineer, and one (1) copy returned to the subdivider.

**3.5 EFFECT OF PRELIMINARY PLAN APPROVAL.** Receipt of the Subdivision Committee's resolution of approval, and an approved copy of the preliminary plan by the subdivider is authorization, subject to the issuance of proper permits, to proceed with the construction of any improvements under the direction and supervision of the City Engineer or his designee, and with the staking of streets and lots in preparation for the final plat.

However, such approval shall not constitute acceptance of the "plat" of the proposed subdivision, but establishes the approved preliminary plan as the guide for preparation of the final plat, which can only be submitted subsequently for final approval after satisfaction of all conditions of the preliminary plan approval.

**3.6 ENGINEERING REQUIREMENTS.**

- A. The subdivider shall furnish the City Engineer all plans and information necessary for engineering consideration and approval for the construction of the proposed improvements. Such plans and information shall be furnished separately and apart from the preliminary plan and vicinity sketch, and shall be certified by a licensed professional engineer.
- B. Before starting construction, necessary arrangements must be made between the subdivider and the City Engineer for adequate testing, construction inspection and required fees, to ensure that the improvements shall comply with the standard specifications of the City of Birmingham.

**3.7 FINAL PLAT FILING AND FEES.** In no event shall the preliminary plan be considered as a submission of a plat for approval or disapproval as specified in *Title 11, Chapter 52, Section 32 of the Code of Alabama 1975*, as amended; only the date of initial Subdivision Committee or Planning Commission hearing on the final plat, or a later continued hearing date requested by the applicant, shall constitute the official date of submittal.

- A. The subdivider shall file the final plat and five (5) copies thereof, which copies shall be distributed as in Section 3.2 of this Article by the staff of the Director of the Department of Planning, Engineering and Permits at least fourteen days prior to the date of the next regular scheduled meeting of the Subdivision Committee.
- B. All proposed final plats shall have been signed and executed by all owners and necessary attestors before being recorded.
- C. In completion of the application for final plat approval, the subdivider shall pay additional fees to defray the expense of investigation and hearing, as follows:
  - 1. \$ 5.00 per lot,
  - 2. \$ 10.00 per acre or portion thereof,
  - 3. Cost of certified mail notice to adjacent property owners,
  - 4. \$100.00 per subdivision plat,
  - 5. \$100.00 per request for right-of-way vacation, and
  - 6. Actual cost of recording.
  - 7. \$100.00 for each condominium project or common ownership subdivision.
- D. Notice of hearing shall be carried out in the same manner as required in Section 3.3.

### **3.8 APPROVAL OF FINAL PLAT AND RECORDING.**

- A. Approval or disapproval of the final plat shall take place in accord with the procedures of Section 3.4, within thirty days after the date of submittal to the Subdivision Committee, unless the subdivider agrees in writing to an extension of that time. If the final plat is disapproved, the grounds for refusal shall be stated in the records of the Subdivision Committee. The action of the Subdivision Committee or Planning Commission shall be shown on the final plat with the date of action shown over the signature of the Director or his designee.
  
- B. Only upon satisfaction of all requirements and any conditions of approval, shall the City, acting as agent for the owner, file the final plat for record in the office of the Probate Judge of the County where the subdivision lies.
  
- C. Five (5) copies shall be made showing the map book and page numbers where the final plat is recorded; two (2) copies shall be sent to and filed by the Engineering Division of the Department of Planning Engineering and Permits, one (1) copy to the Department of Public Works, if necessary and one (1) copy shall be retained in the office of the staff of the Director, where copies will be available for other agencies concerned. Said final plat shall then be returned to the subdivider.

### 3.9 MINOR SUBDIVISIONS AND AMENDED PLATS.

- A. Where the Director and City Engineer find that a proposed subdivision is of such small size or contains so few lots as to present no engineering problems or planning issues, filing of a preliminary plan may be waived by the Director and City Engineer, and an acceptable final plat can be submitted for hearing in accord with Section 3.7 above. This procedure only applies to minor subdivisions which:
1. Require no construction of any road, storm sewer, utility or similar public facilities or site improvements, and
  2. maintains compatible lot sizes or density in relation to similarly situated properties in the surrounding vicinity.
- B. Where an amendment of a recorded plat is proposed solely to correct omissions or errors in descriptions, dimensions or notations, and all owners of lots in the affected subdivision submit a written request or authorization for such application, the Director and the City Engineer, after finding that the amendment will not affect any public improvements, covenants or restrictions, nor have a material adverse effect on property rights of other owners of adjoining properties, may approve an amended final plat for immediate recording. The amending plat shall be clearly marked and annotated as follows:

Amending plat of \_\_\_\_\_ (*Name of Plat*) \_\_\_\_\_. This plat amends the plat previously recorded in the plat and deed records of \_\_\_\_\_ (*Name*) \_\_\_\_\_ County, Map Book \_\_\_\_\_ (*Page*) \_\_\_\_\_.  
This plat includes amendments approved on \_\_\_\_\_ (*Date*) \_\_\_\_\_ by the Secretary of the Birmingham Planning Commission: \_\_\_\_\_ (*Signature*) \_\_\_\_\_.

No notice or hearing is required for such amendment.

**3.10 COMMON OWNERSHIP SUBDIVISION.** Some subdivisions may create special common areas for the benefit of all owners, either to satisfy governmental requirements for health and safety, to protect fragile lands from erosion, contamination or landslides, preserve forests and critical habitat, or to allow voluntary sharing of civic and cooperative purposes, including but not limited to activities such as:

*private parks, gardens and recreational facilities, environmental protection, valuable amenities, flood prevention (including detention or retention ponds), access to lakes or other water features, sewage treatment plants or lagoons, garages, parking lots or decks, storage or warehouses, identification and beautification, plazas, fountains, historic or aesthetic monuments privacy buffers or screening, local traffic control, safety or security concerns, pedestrian walks, bikeways, equestrian paths or trails, nature conservation, landmarks or historic preservation, buildings with a party wall on the property line between separate lots, and other residential or nonresidential uses, structures and improvements.*

- A. Application for final plat hearings on a Common Ownership Subdivision shall be filed with the staff of the Director according to procedures in Article 3 of these regulations. Plats and any public improvements shall comply with Articles 4 through 6, and identify any common areas on the plat to be owned by all property owners of the subdivision, as well as all other areas or improvements to be shared by all property owners. Further documentation shall include:

1. Property Owners Association. Common ownership subdivisions require relevant deed restrictions and protective covenants to assure the continuing usefulness, maintenance, operation and financing of the commonly held property by an incorporated, unincorporated or non-profit property owners association composed of all owners of lots in the subdivision.
2. The property owners association for each common ownership subdivision shall administer the terms of the covenants, and manage all aspects of the common property, including the following powers and duties:
  - a). Election of a Board of Directors with contractual authority,
  - b). As owner of common property, responsible for construction, maintenance and operation of improvements and facilities on common lots, including any private roads, ways, parks, accessory uses, utilities and easements,
  - c). Designation of uses allowed and prohibited activities,
  - d). Annual budget planning, with an adequate maintenance reserve fund, and legal authority for enforcement, and
  - e). Voting procedures to amend Articles, bylaws, and alter, add or dispose of common property, change its purposes and site improvements, or to terminate the common ownership community or the property owners association, as may be approved by the Subdivision Committee, consistent with these regulations.
3. In addition to all other requirements of these subdivision regulations, the uses and all improvements on common lots shall be subject to Subdivision Committee approval of a site development plan. Applicant must submit three (3) copies of a detailed site development plan to scale, fully dimensioned that includes the following: all structures, all lots, all common areas, all easements, principal uses, roads, all traffic control devices, sidewalks, lighting, parking spaces, service areas, trash receptacles, curbs, drainage, and signs; indicating relations among buildings, structures, utilities, site improvements and open spaces.
4. The final plat, and all deed conveyances, shall reference the recorded covenants affecting any common areas. The articles of incorporation and bylaws of the particular property owners association shall be reviewed in conjunction with approval of the final plat, and those court recorded citations shall be referenced on the plat of such subdivision prior to its recording.

- B. Application, Fees, Notice and Hearing. No application shall be accepted that does not conform to all zoning requirements. The subdivider shall pay an additional fee of one-hundred dollars for the filing of each common ownership subdivision final plat application, as noted along with the normal subdivision fees listed in Section 3.7; such charges to be paid upon submission of an acceptable application. The Subdivision Committee shall hold a public hearing on the subdivision proposal, following the same notice and procedures as established in Article 3 of these regulations.
- C. Private Road Subdivisions. A waiver of dedication of public street rights-of-way may be requested for proposed lots in a new subdivision or resubdivision of land. The Subdivision Committee may consider approval of lots having frontage on private roads only as a common ownership subdivision according to this Article, through conveyance of the common area of all new private road areas to the property owners association. Approval will be subject to compliance with all standards of design and construction of the required improvements as set forth in Articles 5, and 6, and any exceptions recommended in accord with Article 7, plus any pertinent conditions necessary for compatibility with the surrounding area, taking into account provisions for health and safety, efficient and economical arrangement of streets and development, including the following circumstances:
1. Where the subdivision may be isolated by unusual terrain and physical barriers, but can be connected safely and conveniently into the existing public street system,
  2. Where no future major highway, collector or local street will be needed for access by the general public, or for public street, sewer and utility connections into adjoining properties, and
  3. Where it will not obstruct convenient and timely connections for traffic circulation, and access to the public street system, or impede access to schools, other public facilities and services in the surrounding vicinity, particularly for emergency responders.

The property owners association shall have the right to erect and operate guardhouses and gates as security check points on the common area at the entrances to public streets, if an adequate turnaround is provided through a general access easement within the subdivision. Any gate control shall provide an override system in case of power failure, with master key or gate code for the use of all emergency services, utilities, school district and law enforcement personnel.

- D. Private Road Responsibilities. Private roads, alleys, other access ways, utilities and drainage improvements shall be constructed by the developer on the common area or private easements in the subdivision. An acceptable private road and sewer maintenance agreement shall be recorded, binding all current owners, their successors and assigns to full legal responsibility for all maintenance, repair and upkeep of any improvements in any common areas, private roads, utilities, drainage and other easements in the subdivision.

The current owners of the affected property shall also record a covenant binding all subsequent owners in the subdivision to release, indemnify, defend and hold harmless the City, its officers, agents and employees, and also any other governmental entity, public or private utility, for any damages or injuries which may be occasioned by reasonable use or from conditions of the private road.

1. A general easement covering the area of all private roads and ways shall be granted to the City and utility providers for the unrestricted ingress/egress, use and maintenance of utilities and drainage systems. Water and sewer facilities may require specific rights-of-way. The easement shall also provide the City and other public agencies the right of access for any purposes related to exercise of a governmental service or function, or emergency response, including but not limited to fire and police protection, inspections and code enforcement and may include trash pick-up.
  2. The final plat and all property deeds shall clearly state that the “MAINTENANCE OF STREETS AND DRAINAGE IS A PRIVATE RESPONSIBILITY, AND PUBLIC MAINTENANCE IS PROHIBITED;” and that the City shall not accept said improvements for maintenance at a later date unless the property owners association provides documentation to the City Engineer and Traffic Engineer that said improvements comply with the design standards of the Subdivision Regulations, and are in good physical condition, with no need for repairs, and provided further that said improvements shall be accepted by the City only upon a favorable recommendation by the City Engineer and Traffic Engineer.
  3. The developer, owners and association will also be responsible for installation and maintenance of traffic signals, directional markers, street signs and lighting, as required by the City Engineer and Traffic Engineer, however, no governmental, emergency, public service or utility vehicle, or personnel, shall be denied access at any time.
- E. Construction of Private Roads and Other Improvements. In supplement to the regular procedures set forth in Articles 3, 5 and 6, and any potential waiver or exception requests in conformity with Article 7 herein, no private road subdivision can be recorded until all conditions of the Subdivision Committee’s final plat approval have been met, including documentation filed with the City Engineer, by a licensed civil engineer, verifying on-site inspection and certification that all required road, utility and drainage improvements have been installed and completed in accord with the design standards of these subdivision regulations.

### **3.11 PROCEDURE TO APPROVE OR DISAPPROVE SUBDIVISION PLANS OR PLATS; APPEALS TO PLANNING COMMISSION.**

- A. The Subdivision Committee will hold its meetings and conduct hearings as provided for in its *Rules of Procedure* (Appendix B), as amended, taking actions as required by these regulations, and maintaining all its records available to the public in the office of the Director.

- B. A quorum of the Committee shall consist of three (3) citizen appointed members; and an affirmative vote by a majority of the members present is necessary to take any action.
- C. The Subdivision Committee will have the authority to grant requested waivers or exceptions in compliance with Article 7, if favorably recommended in writing by either the Director or the City Engineer, but if either official recommends against such request, it can only be approved by unanimous consent of the Committee members present.
- D. Any applicant whose proposal to subdivide land is denied by the Subdivision Committee, shall have the right to appeal to the Planning Commission in accordance with the following procedures and requirements:
  - 1. The applicant must file a written notice of appeal to the Planning Commission, specifying the decision from which the appeal is taken, and the grounds for any reversal or revision.
  - 2. The applicant must file the appeal within fifteen days from the date the application is denied by the Subdivision Committee, post a one-hundred dollar fee and pay the cost of certified mail notice to adjacent property owners,
  - 3. When an appeal is filed with the Planning Commission, the Subdivision Committee will submit all materials of record involved in the particular case and the Subdivision Committee will have no further jurisdiction in the case.
- E. Any aggrieved party may also appeal as outlined in Subsection D. above, and also transmit a copy of the appeal to the applicant by certified mail.
- F. The City Engineer, or the Director, whenever aggrieved by any decision of the Subdivision Committee, may also within fifteen days thereafter appeal to the Planning Commission by filing a written notice of appeal specifying the decision from which the appeal is taken, and sending by certified mail to the applicant a copy of said written notice of appeal.
- G. The same notice of hearing as outlined in Section 3.3 above shall also be given to all parties in interest, for the appeal hearing before the Planning Commission.
- H. The Planning Commission shall conduct its hearings in accord with Articles V and VII of its *BYLAWS* (Appendix A), as amended, consistent with these regulations on all subdivision cases; however in appeal cases, its review shall be limited to evaluation of the evidence submitted on the record, unless it determines by an affirmative vote of twelve (12) members that additional facts may have relevance to the decision, whereupon the case shall be tried *ab initio*, allowing presentation of new evidence.

- I. The Planning Commission has final jurisdiction on appeals, and shall have forty-five days from receipt of the appeal in which to decide whether to uphold or reverse the original decision; and it may change any conditions of approval, or add new conditions; or disapprove the proposed subdivision, specifying the reasons therefore on the record.
- J. In the process of such adjudication, the Planning Commission is empowered to rule on appeals of any administrative interpretation, and may grant requested waivers or exceptions in accord with Article 7 herein.

**3.12 CRITERIA FOR APPROVAL OR DISAPPROVAL OF A SUBDIVISION.** All decisions of the Subdivision Committee concerning proposed subdivisions must be based on factual evidence presented by the subdivider confirming the suitability of particular lands for proposed buildings, construction, access, type and intensity of development or other uses. No new lots shall be created which pose hazards to health, safety or the general welfare, or are not designed in character with existing surrounding subdivisions, or which are not developable or usable for some public purpose or private activities in accord with all applicable zoning provisions.

In accord with state enabling authority, and in pursuit of the goals set forth in the purposes of these regulations, the benefits and liabilities of all new subdivisions must be evaluated for consistency with Birmingham's Comprehensive Plan for physical development, including land use, transportation, capital improvements, community facilities, emergency and other public services, parks, schools, water, sewer, stormwater and utilities plans.

Each new subdivision shall comply with all design standards for public improvements, and site preparation, as specified in Article 5 of these regulations, and must be found to satisfy the following standards of acceptability:

- A. Soils, topography, geological and hydrological hazards have been adequately investigated to ensure that all lots are developable for their designated purposes, particularly where there is evidence of potential risks from:
  - 1. Floodways and lands within the 100-year flood plain, water courses, wetlands, surface or groundwater resources,
  - 2. Dumps, strip mines, buried brush and debris or sanitary land fills,
  - 3. Highly erodible soils, tailings or severe susceptibility to subsidence, sink holes or landslides,
  - 4. Rock outcrops, or steep terrain with over 25 % slopes, and
  - 5. Soils or water contaminated with industrial, chemical or toxic wastes.
- B. Where construction limitations on less hazardous flood plains, isolated drainage basins, problem soils and subsurface conditions can be resolved through best management practices, mitigation measures must effectively reduce the risks for future owners in the subdivision and in the surrounding vicinity.
- C. To prevent the increased severity and extent of flash floods and ponding, with resultant erosion, stream pollution and loss of ground water, new construction should: minimize the amount of cut and fill; recycle top soil; retain maximum soil infiltration and maintain vegetation on permeable surfaces; avoiding rapid run-off of storm water in order to diminish peak levels and duration of flooding.

- D. Supporting information verifies that every new lot can be used safely for building purposes without danger to health or peril from fire, flood or other menace, having access to adequate transportation, emergency services and public facilities, including schools, parks, water, sewers and utilities.
- E. The proposed development will not have detrimental impacts on the safety or viability of permitted uses and development of adjacent properties, but will maximize compatibility among varied activities, through separation of conflicting traffic modes, and utilization of effective landscape buffers and screening features.
- F. When designing the layout of public streets, ways, lands, blocks, lots or common areas, priority should be given to preservation of natural amenities, significant landforms and environmentally sensitive areas. At a minimum, existing trees should be maintained or new shade and evergreen trees should be added to maximum extent possible.
- G. The configuration of streets and easements facilitates pedestrian access and/or bikeway paths connecting into existing or planned schools, parks, open space, greenways, commercial or entertainment centers, employment destinations and transit corridors.
- H. To prevent the possible resulting damage to new development or existing buildings in the landslide susceptibility zone, prior to development in these areas the developer will provide a completed Soil Erosion and Sedimentation Control Geotechnical Certification. The certification can be obtained from the Land Development Engineer located on the 2<sup>nd</sup> Floor of the Comer Building at 808 18th Street North, Birmingham, AL 35203.

**3.13 SUSPENSION OR INVALIDATION OF FINAL PLAT.** Whenever it is found that any subdivider, heir, assigns or subsequent owners, failed to meet all conditions and requirements of final plat approval within the prescribed period, the director or his designee shall notify the subdivider/owner of their specific violation of these regulations. If no compliance actions are commenced within thirty days thereafter, the Subdivision Committee may recommend that the City Attorney take appropriate enforcement action, and also prepare a document to be recorded with the Probate Judge of the County in which the subdivision is located, declaring that final approval for such subdivision is suspended, and that the further sale, lease, or development of property within that subdivision is prohibited until it is brought into compliance with all terms of said approval. However, this prohibition shall not apply to persons or parties who have acquired property from the subdivider, unless that person or party shares a legal interest in common with the subdivider.

If a court of competent jurisdiction invalidates the final plat approved for any subdivision or part thereof under its jurisdiction, the Director shall record such document with the Probate Judge of the county in which the subdivision is located, declaring that the final plat for the subdivision is no longer valid, and that further activity under that subdivision is prohibited.

**3.14 VACATION OF RECORDED PLAT.** The owner of a recorded subdivision may request that its plat be vacated before the sale of any lot therein and prior to improvement of any rights-of-way, utilities or easements, only through the same procedures required for vacations as described in Article 8.

End of Article

## **ARTICLE 4 - PLAT REQUIREMENTS**

### **4.1 GENERAL.**

All surveys and plats shall be prepared in accordance with the current edition of *Standards and Practice for Land Surveying in Alabama* as adopted by the Alabama Society of Professional Land Surveyors.

### **4.2 PRELIMINARY PLAN.**

A. The preliminary plan shall show the following:

1. Date.
2. North Point (Arrow).
3. Title of subdivision.
4. A vicinity sketch or key map of the surrounding area shall accompany the preliminary plan. This sketch or map shall show all existing subdivisions, streets, and tract lines of acreage parcels, and right-of-way width of all streets abutting the proposed subdivision. It shall also show how streets and alleys in the proposed subdivision may connect with existing and proposed streets and alleys in neighboring subdivisions or undeveloped property to produce the most advantageous development of the entire neighboring area.
5. A graphic scale not more than sixty (60) feet to the inch unless the average lot contains one (1) acre or more, but in no event more than one hundred (100) feet to the inch.
6. Topography:
  - a). Based on City of Birmingham, Alabama; Geodetic, or U.S. Coast and Geodetic Sea Level Datum.
  - b). Elevation contours shall be at one (1) foot intervals unless the grade has five percent (5%) to ten percent (10%) slopes, in which case contours shall be at no greater than two (2) foot intervals. Where grades exceed ten percent (10%) the contours shall be no greater apart than five (5) foot intervals, while grades steeper than 25% shall have contours at no greater than 10 foot intervals.
7. Streets:
  - a). Names (with a letter from the United States Postal Service stating that there is no duplication of proposed names within the metropolitan area of the City).
  - b). Right-of-way, sidewalks and roadway widths.
  - c). Approximate grades.
  - d). Purposes.
8. Other rights-of-way or easements: Locations, widths and purposes.
9. Utilities: Location of those on or adjacent to the tract to be subdivided, including size and elevation.
10. Lot lines, lot and block numbers and approximate dimensions.
11. Names and addresses of all owners of the property, including the existing mortgagees, the subdivider, and the surveyor platting the tract.
12. Number of Section, Township and Range with ties to all recognized existing quarter section corners within or close to the proposed subdivision.
13. Proposed location, size and type of streetlights and signs.

14. Proposed parks, school sites, or other public open spaces, or common areas on-site.
  15. Exact boundary lines of the tract indicated by a heavy line giving distances to the nearest hundredth of a foot and bearings to the nearest second of arc.
  16. Floodway and floodway fringe boundaries within the subdivision. If within the 100-year flood plain the lowest allowable finished floor elevation for each lot, based on officially adopted floodplain regulations of the City of Birmingham in effect at the time the plat is recorded.
  17. If any portion of the proposed subdivision is subject to other isolated causes of inundation by storm sewers or overflow or ponding of local storm water, such fact and portion shall be clearly shown and identified.
  18. Natural Resources Inventory: based on a topographic map to be imposed on the preliminary plan, the inventory shall include but not be limited to:
    - a). Existing vegetation areas including forests and woodlands.
    - b). Subwatershed boundaries and receiving waters.
    - c). Slopes, Red Mountain slide zones, soils and ground water characteristics.
    - d). Existing lakes, streams, ponds and drainage swales.
    - e). Delineated or designated wetlands and blue line streams.
  19. Any other information that may be necessary for the full and proper consideration of the proposed subdivision.
- B. Effective period of preliminary plan approval. The approval of a preliminary plan shall be effective for a period of two years, at the end of which time a final plat approval on the subdivision must have been obtained from the Subdivision Committee or Planning Commission, and recorded in the County in which the subdivision is located. Any preliminary plan not receiving a final plat approval covering at least 20% of its total lots or acreage within said time period shall be null and void, and the developer shall be required to resubmit a new plan for preliminary approval subject to all new zoning restrictions and subdivision regulations. However, the timely phasing of any such partial final plats shall extend the validity of the original preliminary plan approval for an additional one year.

#### **4.3 THE FINAL PLAT.**

- A. The final plat shall be an original drawing in ink, on reproducible media with dimensions no greater than 24" by 36", and shall be tied to an accepted corner based on the U.S. Government Survey of this area which shows the relationship to the Huntsville Base Line and the Huntsville Meridian. A resurvey of a part of a subdivision may be tied to the original subdivision. The final plat shall also show the following:
  1. Exact boundary lines of the tract indicated by a heavy line giving distances to the nearest hundredth of a foot and bearings to the nearest second of arc.
  2. Right-of-way lines of streets, easements, and other rights-of-way.
  3. Property lines of lots, with accurate dimensions, bearings, of deflection angles, radii, and central angles of all curves.
  4. Name and right-of-way width of each street, width of sidewalk and/or designation of other right-of-way.
  5. Location, dimensions, and purposes of any easements.
  6. Number to identify each lot or site.

7. Purpose for which sites, other than residential lots, are dedicated or reserved, it being understood that any reservations of areas for other than residential purposes shall be subject to the proper zoning thereof.
8. Location and description of monuments.
9. Reference to recorded subdivision plats of adjoining platted land by map book volume and page number.
10. Title of subdivision, graphic scale, written scale, north arrow.
11. Name and license number of surveyor.
12. Date.
13. Quarter section or quarter sections in which the subdivision is located based on the government survey of that area.
14. Space for the approval of the City Engineer and the Birmingham Planning Commission.
15. Floodway and floodway fringe boundaries within the subdivision. If within the 100-year flood plain the lowest allowable finished floor elevation for each lot, based on officially adopted floodplain regulations of the City of Birmingham in effect at the time the plat is recorded.

B. On all plats when there is NO Mortgagee, whether there is a dedication of property for street purposes or not, a certificate substantially in form as follows:

THE STATE OF ALABAMA

(insert name) \_\_\_\_\_ COUNTY

The undersigned, (insert surveyor's name), surveyor and (insert owner's name), owner(s), hereby certify that this plat or map was made pursuant to a survey made by said surveyor and that said survey and this plat or map were made at the instance of said owner (s); that this plat or map is a true and correct plat or map of lands shown therein and known or to be known as (name of subdivision or resurvey) showing the subdivisions into which it is proposed to divide said lands, giving the length and bearings of the boundaries of each lot and its number, showing the streets, alleys and public grounds, giving the bearings length, width and name of each Street, as well as the number of each lot and block and showing the relation of the lands to the government survey (or, if the plot is a resurvey of an existing recorded subdivision, "showing the relation of the lands to the survey of (insert subdivision name) as recorded in the Probate Office of (insert NAME) County in Map Book (insert number), Page (insert number)"); and that iron pins have been installed at all lot corners and curve points as shown and designated by small open circles on said plat or map. Said owner(s) also certifies (certify) that he (she, they, it) is (are) the sole owner(s) of said lands and that the same are not subject to any mortgage. Said owner(s) hereby irrevocably dedicates (dedicate) all new streets, alleys and public grounds, as well as easements for all utilities, as shown by said plat or map. Said owner(s) agrees (agree) that the City of Birmingham may at any time change the natural or existing grade of any Street, alley or public grounds, or any part thereof, from the natural or existing grade to the permanent grade without the payment of compensation or damages to the abutting owner; and this agreement shall be a covenant running with the lands. The undersigned appoints the City of Birmingham as agent for the purpose of filing said plat or map, together with this instrument, for record, and certify that we have full authority to execute this instrument and map.

Dated \_\_\_\_\_ 20 \_\_\_\_.

(Execution and Acknowledgment by Surveyor, Owner(s),)

- C. On any plats when there is a Mortgagee, whether there is a dedication of property for street purposes or not, a certificate substantially in form as follows:

THE STATE OF ALABAMA

(insert name) COUNTY

The undersigned, (insert surveyor's name), Surveyor, and, (insert owner's name) owner(s), hereby certify that this plat or map was made pursuant to a survey made by said surveyor and that said survey and this plat or map were made at the instance of said owner(s); that this plat or map is a true and correct plat map of lands shown therein and known or to be known as (name of subdivision or resurvey) showing the subdivisions into which it is proposed to divide said lands, giving the length and bearings of the boundaries of each lot and its number showing the subdivision streets, alleys and public grounds, giving the bearings, length, width and name of each Street, as well as the number of each lot and block and showing the relation of the lands to the government survey (or, if the plot is a resurvey of an existing recorded subdivision "showing the relation of the lands to the survey of (insert subdivision name) as recorded in the Probate Office of (insert NAME) County in Map Book (insert number), Page (insert number)"); and that iron pins be installed at all lot corners and curve points as shown and designated by small open circles on said plat or map. Said owner(s) also certifies (certify) that he (she, they, it) is (are) the sole owner(s) of said lands and that the same are not subject to any mortgage, except a mortgage or mortgages held by the following mortgagee(s): (insert mortgagee name(s)). Said owner(s) and said mortgagee(s) hereby irrevocably dedicate all new streets, alleys and public grounds, as well as easements for all utilities, as shown by said plat or map. Said owner(s) and said mortgagee(s) agree that the City of Birmingham may at any time change the natural or existing grade of any Street, alley or Public grounds, or any part thereof, from the natural or existing grade to the permanent grade without the payment of compensation or damages to the abutting owner; and this agreement shall be a covenant running with the lands. The undersigned appoints the City of Birmingham as agent for the purpose of filing said plat or map, together with this instrument, for record, and certify that we have full authority to execute this instrument and map.

Dated \_\_\_\_\_ 20\_\_\_\_.  
(Execution and Acknowledgement by Surveyor, Owner(s) and Mortgagee(s))

- D. Notary's acknowledgement of the certificate referred to in (B) or (C) above, substantially in the form as follows:

STATE OF ALABAMA

(insert name) COUNTY

I, (insert notary's name), as Notary Public in and for said County and State, do hereby certify that (insert surveyor's name), whose name is signed to the foregoing certificate as Surveyor, and (insert owner's name), whose name is signed to same as Owner and (insert mortgagee's name), whose name is signed to same as Mortgagee, all of whom are known to me, acknowledged before me, on this date, that after having been duly informed of the contents of said certificate, they executed same voluntarily as such individuals (or in any other capacities) with full authority therefore.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

E. On all plats where there is a DEDICATION of land for street purposes, whether in the form of new streets, additional right-of-way for existing streets, or merely curve radii where there were angle corners formerly existing, a resolution substantially in form as follows:

1. Where the subdivision is subject to a Performance Bond in lieu of actual completion of all required improvements:

BE IT RESOLVED By the Council of the City of Birmingham that this body hereby acknowledges reception of the owner(s) irrevocable offer of dedication of the streets, alleys and Public grounds as shown on the plat or map of (insert plat name) which said plat or map is certified to have been made by (insert surveyor's name) a surveyor at the instance of (insert owner's name) as owner, and acknowledged by (insert mortgagee(s) name, if any) as mortgagee, and it has been exhibited to this Council; said plat or map being filed for future consideration by this Council, and signed by (insert City Clerk's name) City Clerk, of even date herewith. But this shall not be construed as an assumption of dominion over any new street, alley or public grounds shown on said plat or map or impose liability upon the City for the upkeep of same, until and unless all subdivision improvements and conditions have been completed to the satisfaction of the City Engineer, as a prerequisite to adoption of an ordinance of acceptance by this Council.

2. Where all required improvements and conditions of approval for the subdivision have been COMPLETED, and subjected to any maintenance bond, to the satisfaction of the City Engineer:

BE IT ORDAINED By the Council of the City of Birmingham that after inspection of the plat or map entitled (insert subdivision name), which is proposed to be recorded in the office of the Judge of Probate of (insert name) County, and which is certified to be made by (insert surveyor's name) surveyor, at the instance of (insert owner's name) as owner, and acknowledged by (name of mortgagee), as mortgagee, and giving due consideration to the offer of irrevocable dedication by said owner, and after notification that all required improvements and conditions of approval have now been completed to the satisfaction of the City Engineer, (insert name), this Council accepts the aforesaid offer, and hereby dedicates all new streets, alleys and Public grounds as shown on the aforesaid plat or map, being further identified by a recital of the approval of this Council signed by (insert name of City Clerk), City Clerk, of even date herewith.

3. Where a subdivision has been recorded as in Paragraph 1 above, upon completion of all required improvements, the City Engineer shall present to the City Council for adoption, an ordinance substantially comparable to that in Paragraph 2 above, citing the Map Book and Page Number where the plat has been recorded.

- F. On all plats for subdivisions where there are sanitary sewer easements located in Jefferson County, a certificate shall be shown substantially in form as follows:

Jefferson County Environmental Services Department hereby approves this record map for sanitary sewer purposes only. Such approval indicates that easements have been dedicated for future Jefferson County sanitary sewers, however this does not mean sanitary sewers have been built or will be built in the future. Any change in the Right-of-Way or Easement Boundaries after this date may void this approval.

\_\_\_\_\_  
DIRECTOR OF ENVIRONMENTAL SERVICES  
APPROVED IN FORMAT ONLY

Date: \_\_\_\_\_

Where a different entity has jurisdiction over the site, a similar certificate shall be included concerning sanitary sewer easements by that agency or authority.

- G. On all plats for property in Jefferson County, where the sanitary sewer will be located within a Private Roadway, a certificate shall be shown substantially in form as follows:

RESERVATION OF SANITARY SEWER EASEMENT

Jefferson County, a political subdivision of the state of Alabama, reserves a sanitary sewer easement within the entirety of the private roadways shown herein to enter upon, keep clear, cross over and under for the purposes of installing, maintaining and repairing a sanitary sewer pipeline, manholes and all appurtenances thereto within said easement. In the event that the private roadways shown herein shall become public roads in the future, the easement reserved herein shall not be altered, destroyed or revert to the fee owners, but shall remain in full force and effect. This reservation shall not affect any other sanitary sewer easement more specifically described herein nor is it intended to create a public roadway easement in the private roads shown herein or a duty to maintain said private roads by the county or city of Birmingham. The sole purpose of this reservation is to reserve a sanitary sewer easement in the private roadways shown herein.

Environmental Services Department approval indicates that easements have been dedicated for future Jefferson County sanitary sewers however this does not mean sanitary sewers have been built or will be built in the future. Any change in the right-of-way or easement boundaries after this date may void this approval.

\_\_\_\_\_  
DIRECTOR OF ENVIRONMENTAL SERVICES  
APPROVED IN FORMAT ONLY

Date: \_\_\_\_\_

If a different entity has jurisdiction over the site, a similar certificate shall be shown as required by such entity.

- H. If a waiver from the requirement for sanitary sewer main extension to any lot is granted, a note shall be shown on the plat as listed in Subsection 5.8D, prohibiting any building permit, except where an onsite sewage disposal system permit has been obtained from the authorized jurisdiction.

- I. Where a street or alley has been VACATED, a note on the plat indicating such and referring to the recorded instruments of vacation by deed book and page number.
- J. If there are existing structures on land proposed to be subdivided or resubdivided or on immediately adjoining land in which the subdivider has or has had or will have an interest, three (3) copies of a survey plot plan showing the exact locations of such structures with their relation to the proposed subdivision or resubdivision shall accompany the final plat, two (2) of which shall be forwarded to the City Engineer.
- K. The final plat shall be accompanied by three (3) copies of any protective covenants running with the land in form of recording.
- L. Effective Period of final plat Approval. If the final plat, as approved by the Subdivision Committee or Planning Commission, is not recorded within one year of the date of final approval, the approval of such plat shall be deemed to have expired and the developer shall be required to resubmit a new plat for final approval.

End of Article

## ARTICLE 5 – DESIGN STANDARDS

### 5.1 STREET PLAN.

- A. All streets shall be platted along contour elevations, which will result in minimum steepness of street and lot grades and greatest visibility wherever practicable, with consideration given to the anticipated use of the land, taking all measures to avoid unnecessary street length, through careful layout of lots and by strategically planning for interconnectivity.
- B. The proposed street layout shall be made according to good land planning practice for the type development proposed and shall be coordinated with the street systems of the surrounding areas. All streets must provide for the continuation or appropriate projection and dedication of principal streets into surrounding areas to provide reasonable means of ingress and egress for surrounding acreage tracts. Street patterns in all subdivisions shall be in conformity with the Major Street Plan and Bicycle Plans of the City of Birmingham. Arterials and Collector streets and planned bicycle routes should be consistent with the most current Birmingham Metropolitan Planning Organization’s *Regional Transportation Plan (RTP)*.
- C. In subdivisions which border on or include within the proposed areas to be subdivided any Expressway or major or minor Arterial street, access to lots abutting such major traffic arteries shall be provided in a manner such that the individual lots shall not have direct access to such expressway or arterial streets. The Subdivision Committee may require parallel streets on each side as marginal access service roads. Where proposed residential lots need buffering from abutting traffic impacts, double frontage lots shall be aligned to back up to the major street, retaining a planting screen no less than 20 feet wide, with their access limited solely to parallel local roads or side crossing streets. Where the foregoing designs are not feasible, access to arterial or high-volume collector routes should be minimized by utilizing a shared driveway that is regulated by a covenant.
- D. Except where buffers or screening may be needed for compatibility or aesthetics, reserve strips or “spite” strips, unduly restricting access needed for nearby properties are prohibited.
- E. The geometric design of bicycle facilities on all roadways shall conform to the *Guide for the Development of Bicycle Facilities*, latest edition, published by AASHTO. Signs and pavement marking for bicycle facilities shall conform to *The Manual on Uniform Traffic Control Devices*, latest edition, published by the Federal Highway Administration or as modified by the Traffic Engineer.
- F. Where practical, for traffic calming or to better manage high capacity street intersections, roundabout design shall be considered as an alternative to traffic light control signals or signage alone, to determine relative safety, efficiency and economy. All design of any proposed roundabout will be subject to the approval of the Traffic Engineer and City Engineer.
- G. Subdivisions will be designed with more than one means of ingress and egress.

- H. All curb extensions and designated on-street parking design shall be reviewed and approved by the Traffic Engineer and the City Engineer.
- I. Subdivisions along existing or dedicated or platted streets where rights-of-way are inadequate shall provide additional rights-of-way to meet minimum standards for the topographic situation and category of traffic of such streets. Where a subdivision would include within its boundaries any link listed on the Birmingham Major Street Plan or Bicycle Plan for a new or widened street or other route, sufficient right-of-way shall be dedicated to serve its designed capacity, however the subdivider shall not be responsible for construction of such road beyond local street standards.
- J. All driveways shall be installed in accordance with the provisions of *Article F of the General Code of the City of Birmingham, Alabama, 1980*, as amended.
- K. All Collector and Local streets shall conform to the following intersection design standards:

<u>Standard</u>	<u>TOPOGRAPHIC GRADIENTS</u>		
	<u>0-8%</u>	<u>8.1-15%</u>	<u>Over 15%</u>
Clear horizontal sight distance ( Length along each approach leg)	90 Feet	90 Feet	70 feet
Vertical alignment within 100 feet of the centerline of intersections	5%	5%	5%
The minimum centerline offset of adjacent street intersections shall be as follows:			
Local-Local	150 Feet		
Local -Collector	150 Feet		
Collector-Collector	200 Feet		

- L. Street alignment shall be designed to eliminate sharp curves and street jogs. Streets shall intersect at right angles if possible and in no case at an angle of less than seventy-five (75) degrees.
- M. Curb radii of collector and local streets shall be 25 feet:

- N. Streets shall be aligned to connect with the surrounding layout and, where adjacent tracts are vacant, with the most advantageous location for future development. Stubbed streets 100 feet long or greater, ending at the edge of a subdivision, shall provide a temporary maneuver area for the reversal of vehicle direction within the right-of-way. A sign shall be erected at the entrance intersection to the no- outlet street, warning motorists of the lack of connection to other streets, in accord with the *Manual on Uniform Traffic Control Devices*, cited above.
- O. Streets shall be graded to a minimum line of seven (7) feet back of the curb line with a slope no greater than 2% measured from the top of curb.
- P. Prior to applying the final seal coat in paving the streets, fire hydrants shall be installed in all locations necessary to protect every lot or proposed structure in accord with the requirements of the Birmingham Fire and Rescue Service.
- Q. The provisions of Article 5.1 of these regulations shall be complied with, except that the Subdivision Committee will have the authority to grant requested waivers or exceptions in accord with Article 7, if favorably recommended in writing by either the Director or the City Engineer; but if either official recommends against such request, it can only be approved by a unanimous vote of the Subdivision Committee members. Before granting any such waiver or exception of the provisions of Article 5.1, the Subdivision Committee must have considered a report, if any, from the Traffic Engineer regarding any proposed changes, as have been submitted to the staff of the Director.
- R. Street stub-outs shall be included every 400-1,300 feet in subdivisions to provide future connectivity to adjacent land. All street stub-outs must be named and terminate at the property line of the subdivision, and if adjacent land has a stub-out street, developer must connect new subdivision to it.
- S. All streets shall conform at least to the following minimum standards, except as may be provided in this Article under Section 5.1.Q, and in Article 7 of these regulations:
1. The geometric design of all roadways for streets classified as freeways, expressways, major arterial and minor arterial shall conform generally with *A Policy on Geometric Design of Highways and Streets*, latest edition, with consideration given to the principles outlined in *A Guide for Achieving Flexibility in Highway Design*, both published by AASHTO, including any published supplements to those policies, and the principles within the United States Department of Transportation *Policy Statement on Bicycle and Pedestrian Accommodation Regulations and Recommendations* (see Appendix D).

MINIMUM DESIGN STANDARDS

<u>Roadway Type</u>	<u>Minimum Right-of-Way</u>	<u>Minimum Pavement Width*</u>	<u>Minimum Sidewalk Width</u>
Freeway and/or Expressways	200 Feet	----	----
Major Arterial Street	100 Feet	67 Feet	4 Feet
Minor Arterial Street	80 Feet	53 Feet	4 Feet

\* measured at back-of-curb to back-of-curb

- a). Acceleration/deceleration lanes, left turn lanes and medians or other traffic control improvements may be required on arterial streets, by the Traffic Engineer and City Engineer, where necessary to mitigate hazardous traffic movements at public intersections or entrances to private developments.
- b). All driveways shall be designed to allow a vehicle to turn around on private property, so no vehicles need to back into the public street.
- c). No driveway for a non-residential use shall be closer than 70 feet to the intersection boundary line and will be approved by the Traffic Engineer, and no driveway for a residential use shall be closer than 40 feet to the intersection boundary line.
- d). Sidewalks shall be constructed along both sides of all major and minor arterials, paved at the same time as the streets, curbs and gutters are installed and shall have ADA compliant curb ramps at all intersections. Sidewalks shall not have a cross-slope greater than 2%.

2. Collector streets shall conform to the following standards:

MINIMUM COLLECTOR STREET DESIGN STANDARDS

<u>Standard</u>	<u>TOPOGRAPHIC GRADIENTS</u>		
	<u>0-8%</u>	<u>8.1 - 15%</u>	<u>Over 15%</u>
Right-of-way Width (Feet)	60	60	60
Pavement Width (Feet)*	37	37	37
Minimum Sight Distance (Feet)	250	200	150
Maximum Grade	12%	12%	12%
Minimum Centerline Radii (Feet)	350	230	200
Sidewalks Residential (Minimum width in feet)	4	4	4
Sidewalks Commercial (Minimum width in feet)	6	6	6

\* measured at back-of-curb to back-of-curb

- a). The minimum distance between the back of the curb and the required sidewalk shall be three (3) feet. The maximum distance shall be eight (8) feet.
- b). All curbs and gutters installed in conformity with these regulations shall be minimum six (6) inch vertical face with one (1) foot of gutter or an overall width of combined curb and gutter of eighteen (18) inches.
- c). No driveway for a non-residential use shall be closer than 70 feet to the intersection boundary line, and no driveway for a residential use shall be closer than 40 feet to the intersection boundary line.
- d). The minimum spacing of collector street intersections along any major arterial or minor arterial street shall be thirteen hundred (1300) feet from centerline to centerline.
- e). All commercial or industrial service streets shall be constructed to no less than the minimum collector street standards.
- f). Acceleration/deceleration lanes, left turn lanes and medians or other traffic control improvements may be required by the Traffic Engineer and City Engineer, where necessary to mitigate hazardous traffic movements at public intersections or entrances to private developments.
- g). Where deemed necessary, the developer shall design and configure collector streets in a manner to discourage speeding traffic, and/or shall install traffic calming devices in accord with the general principles of the *Manual on Uniform Traffic Control Devices*, latest edition published by the Federal Highway Administration. The location and design of particular systems shall be determined by the City Engineer and Traffic Engineer.
- h). Sidewalks shall be constructed along both sides of all collector streets, paved at the same time as the streets, curbs and gutters are installed, and shall have ADA compliant curb ramps at all intersections. Sidewalks shall not have a cross-slope greater than 2%.

3. Local streets shall conform to the following standards;

MINIMUM LOCAL STREET DESIGN STANDARDS

<u>Standard</u>	<u>TOPOGRAPHIC GRADIENTS</u>		
	<u>0-8%</u>	<u>8.1 - 15%</u>	<u>Over 15%</u>
Right-of-way Width (Feet)	50	50	50
Pavement Width (Feet)*	28	28	28
Minimum Sight Distance (Feet)	200	150	110
Maximum Grade	15%	15%	15%
Maximum Cul-de-sac Length Single Family Lots (Feet)	600	600	600
Maximum Cul-de-sac Length Multi Family Use (Feet)	500	500	500
Minimum Centerline Radii (Feet)	250	175	150
Sidewalks (Minimum width in feet)	4	4	4

\* measured at back-of-curb to back-of-curb

- a). The minimum distance between the back of the curb and the required sidewalk shall be three (3) feet. The maximum distance shall be eight (8) feet.
- b). All cul-de-sacs shall terminate in a circle with a right-of-way radius of not less than Sixty (60) feet. The pavement radius of at least fifty and one-half (50.5) feet shall be measured to the back of the curb, or outside edge of a valley gutter.
- c). All curbs and gutters installed in conformity with these regulations shall be minimum six (6) inch vertical face with one (1) foot of gutter, or an overall width of combined curb and gutter of eighteen (18) inches.
- d). The City Engineer may permit 30” (minimum width) valley gutters instead of standard curb and gutters only where residential lots have a width of forty (40) feet or less, measured at the street right-of-way line.

- e). With Subdivision Committee approval, the City Engineer may permit pervious swales (instead of standard or valley gutters) within E-1, A-1, A-2 and M-2 zoned districts when the roadway is designed with a concrete edge. Construction details of the concrete edging and swales shall be subject to the City Engineer's approval.
  - f). Where deemed necessary by the City Engineer and Traffic Engineer, the developer shall design and configure local streets in a manner to discourage excessive or speeding traffic, and/or shall install traffic calming devices in accord with the general principles of the *Manual on Uniform Traffic Control Devices*, latest edition, published by the Federal Highway Administration. The location and design of particular systems shall be approved by the City Engineer and Traffic Engineer.
  - g). In general, sidewalks shall be constructed along both sides of all local streets at the same time as the streets, curbs and gutters are installed and shall have ADA compliant curb ramps at all intersections. Sidewalks shall not have a cross-slope greater than 2%. Except in E-1, all M and A zoning districts. Developers may make arrangements, prior to beginning any construction, with the City Engineer to allow homebuilders to install sidewalks on behalf of the Developer. Certificates of Occupancy will not be issued for new houses until the required sidewalks have been approved by the City Engineer. It shall be the Developer's responsibility to make homebuilders aware of this requirement. Sidewalks across lots that remain undeveloped or sidewalks that do not comply with the requirements of the City of Birmingham shall be completed or replaced by the Developer at the direction and to the satisfaction of the City Engineer before any of the required improvements will be accepted by the City of Birmingham for maintenance. Developers are responsible for the construction of all required improvements including sidewalks.
  - h). On corner lots Driveway curb cuts must be a minimum of 40 feet from the side streets intersection boundary line.
- T. To the maximum extent possible, Complete Street design principles shall be used to guide future street design for both new and retrofit projects, and any exception to this approach shall be appropriately justified. Appendix C contains names of publications that can be used as guidance.

## **5.2 STREETS AND SUBDIVISION NAMES.**

- A. Street names shall be coordinated with the U. S. Postal Service, and not be duplicative of other unrelated streets, and shall be subject to approval of the City Engineer.
- B. Subdivision names for plats shall be subject to the approval of the Subdivision Committee, and shall not duplicate the name of any other unrelated plat already recorded in a different part of Jefferson County or in Shelby County.

### **5.3 Alleys, Easements and Half Streets.**

- A. Alleys are encouraged in residential districts to provide access to parking and overhead utilities, and may be required in commercial or industrial districts if it is determined by the Subdivision Committee that conditions necessitate alleys in any such district. In no case shall alleys be less than twenty (20) feet in right-of-way width with curb radii at street intersections of at least fifteen (15) feet.
- B. Easements, except for sanitary sewers, shall not be less than ten (10) feet in width except in cases of double tiered lots where a width of seven and one-half (7½) feet from each tier will be permitted. Developers are encouraged to place utilities at back of sidewalk. The width of sanitary sewer easements shall be determined by the Jefferson County Environmental Services Department, or the responsible entity for sites lying within a different jurisdiction.
- C. Where there exists a storm water ditch, drainageway, creek, perennial or intermittent stream, or any other watercourse, the easement shall be of sufficient width that such watercourse may be installed and maintained efficiently. The location of any such storm water ditch, creek or watercourse shall not be changed without the approval of the Subdivision Committee upon a favorable recommendation from the Director and the City Engineer, in conjunction with any approvals required by the Federal Emergency Management Agency and the U. S. Corps of Engineers.
- D. Half streets will not be permitted except in situations where necessary to complete an existing contiguous half street.

**5.4 OFF-ROAD BICYCLE AND MULTI-USE PATHS.** Off-road paths, when part of the approved bicycle plan routes, shall conform to the standards of the *Guide for the Development of Bicycle Facilities*, latest edition, published by AASHTO.

### **5.5 WATER DRAINAGE AND FLOODED AREAS.**

- A. All subdivisions shall be provided with adequate storm sewers. The potential use of swales and natural detention and infiltration methods of reducing or slowing the flow, including porous surfaces should receive initial investigation. In cases where the size of such storm sewer would make the cost prohibitive in relation to the value of the land and the City Council does not have sufficient funds allocated for such improvements to participate in such costs, these areas shall be planned and shown in dotted lines for future development but shall be excluded from the proposed subdivision.
- B. The drainage plan should provide that the post-development runoff rate not exceed the pre-development runoff rate from a given site. Whenever possible, low impact development techniques (LID) should be utilized such that the post-development hydrology mimics the pre-development hydrology for the storm events defined in the *Engineering Design Guidelines for Subdivision and Commercial Developments*, latest edition.

- C. Lakes, ponds, creeks and similar areas will be accepted for maintenance only if sufficient land is dedicated as a public recreation area or park, or if such area constitutes a necessary part of the drainage control system. Dedication of such areas is contingent on approval by the Birmingham Park and Recreation Board and acceptance by the City Council.
- D. Areas subject to periodic flooding caused by poor drainage facilities will not be accepted by the Subdivision Committee unless the subdivider makes necessary provisions to eliminate such flooding.
- E. Storm sewer systems shall be developed in accordance with the City of Birmingham's *Engineering Design Guidelines for Subdivisions and Commercial Developments*, latest edition. Copies of this document are available from the office of the City Engineer.

**5.6 STORMWATER DETENTION/RETENTION FACILITIES.** Stormwater detention/retention facilities shall be developed in accordance with the City of Birmingham's *Engineering Design Guidelines for Subdivisions and Commercial Developments*, latest edition. Copies of this document are available from the office of the City Engineer. Prior to initiating each stage in the construction process, the subdivider shall be responsible for notifying the City Engineer, so that an on-site inspection may be conducted by the City staff at each stage of construction, for appropriate soil and sedimentation controls.

**5.7 SOIL AND SEDIMENTATION CONTROL.** Prior to any land disturbance activity, the subdivider shall prepare and submit to the City Engineer an erosion control plan consistent with the *Soil Erosion and Sedimentation Control Ordinance*, of the City of Birmingham. Said plan must also include an acceptable structural controls maintenance plan. Development of the subdivision shall not proceed without approval from the City Engineer. The plan shall be approved if it complies with all requirements of the Zoning, Subdivision, Soil Erosion and Sediment Control, and Stormwater Ordinances and regulations. Prior to initiating each stage in the construction process, the subdivider shall be responsible for notifying the City Engineer so that an on-site inspection may be conducted at each stage of construction for appropriate soil and sedimentation controls.

## 5.8 SANITARY SEWERS.

- A. Sanitary sewer shall be provided to all lots in a subdivision except as noted in Section 5.8D.
- B. All proposed sanitary sewer systems shall be reviewed and approved by the entity having jurisdiction over the sanitary sewer system.
- C. One set of approved sanitary sewer plans shall be provided to the City Engineer before the final plat will be recorded.

### D. Sanitary Sewer Alternatives

Sanitary sewer systems may not be readily available in isolated locations where it is found impractical or infeasible to extend existing sewer mains or create new central public or private collection and treatment facilities. An existing legally established onsite disposal system may be approved by the City Engineer to serve a new lot only if the applicant provides satisfactory evidence that such system has adequate capacity for the size and physical character of all lots. In lieu of providing a sanitary sewer main, the applicant may request an exception from this requirement in accordance with Article 7 of these regulations. In considering any alternate proposal, the Subdivision Committee shall require the applicant to:

- 1. Provide adequate information as to the distance and estimated costs of extending existing sanitary sewer main lines to serve the lots, and
- 2. Provide evidence that no central public or private sanitary sewer system is planned to be operational within a one-half mile radius of the subdivision within the next ten years, and
- 3. Provide evidence that the Jefferson (or other County of location) Department of Health will approve an onsite sewage disposal system for each lot.

For each lot where a waiver from the requirement to extend a sanitary sewer main is granted by the Subdivision Committee, wording substantially in the form that follows shall be shown on the plat:

No building permit for a structure containing plumbing will be issued for Lot\_\_\_\_\_, Block\_\_\_\_\_ without first obtaining an onsite sewage disposal system permit from the (*insert either* Jefferson County Department of Health *or* the Shelby County Health Department *or* other agency with jurisdiction, depending on location) , or else extending a sanitary sewer main to serve the lot.

## 5.9 Layout Patterns.

### A. Blocks

1. The size and shape of blocks shall be laid out with special attention given to the natural terrain, drainage, and the type of use, development density and traffic access contemplated.
2. Length of blocks shall not exceed 1300 feet along collector streets. Lengths along local streets in residential areas shall not be less than 400 feet, nor longer than 1300 feet.
3. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. However one tier of deep lots may be permitted in blocks adjacent to arterials and collectors, railroads or waterways.
4. A right-of-way or easement may be required for bike paths or pedestrian access, providing a minimum 8 foot wide connection through the middle section of a block over 800 feet long, or extending from a cul-de-sac, through lots where needed for circulation or public access to schools, parks, shopping and similar destinations such as a transit facility or other public facility.
5. Blocks with lots having double frontage on streets shall be avoided.

### B. Lots

1. Each lot shall have a defined front yard on a public street and vehicular access to a public street, alley or an approved private road.
2. Lot sizes, shapes and locations shall be made with due regard to topographic conditions, physical constraints, drainage, access and type of traffic, proposed use, and the existing use and zoning in the surrounding area. A resubdivision, or a subdivision adjoining an area already subdivided, shall complement the established pattern, improving, rather than detracting from, the character of the surrounding neighborhood.
3. Where easements for public utilities, storm or sanitary sewers are contemplated, the lot lines shall be located in such a manner as to facilitate the construction of such improvements and the maintenance thereof.
4. Lot areas, widths and orientation shall meet or exceed minimum zoning and health standards; and the Subdivision Committee may impose greater requirements: in order to assure sufficient buildable or usable area, and all-weather accessibility for each lot; or if it is found that a particular configuration would interfere with the quiet enjoyment or potential development of surrounding or adjacent properties, depreciating values; or if a proposed design would impose an undue burden on the City in furnishing municipal services to the area.
5. Corner lots shall be made wider and larger than interior lots and shall provide at least the same minimum setback on the side street as required on the front by the Zoning Ordinance.
6. Lot lines shall be substantially at right angles to the streets except on curves where they shall be radial. Where the distance between rear lot corners on double tiered lots would be less than ten (10) feet the radial lines shall be deviated so that the corners will be the same.

#### **5.10 PUBLIC AREAS.**

- A. In all new residential subdivisions containing 15 or more acres, suitable amounts of land may be evaluated for reservation as possible sites for park and recreation areas for possible acquisition by the Birmingham Park and Recreation Board. Any land required for park use must be identified by the Birmingham Park and Recreation Board prior to the approval of the preliminary plan.
  
- B. In all new residential subdivisions containing 15 or more acres, suitable amounts of land may be evaluated for reservation as possible sites for educational purposes for the Birmingham Board of Education. Any land required for schools use must be identified by the Birmingham Board of Education prior to the approval of the preliminary plan.
  
- C. In all areas where a developer is planning a residential subdivision of 15 or more acres, they shall present a waiver, to the staff of the director, signed by the Park and Recreation Director and the Superintendent of Birmingham Schools stating that there is not a need for land to be reserved for parks or schools within the proposed development.

End of Article

## **ARTICLE 6 – COMPLETION OF REQUIRED IMPROVEMENTS: BOND**

### **6.1 Required Improvements.**

- A. Prior to the approval of the final plat, the subdivider shall have installed, caused to be installed, or constructed (or posted bond as provided for in Section 6.2 of this Article) all required improvements, including the following:
1. All streets shall have been graded in conformity with all dimensional and design requirements set out in Article 5, above.
  2. On both sides of each street there shall have been constructed a standard curb and gutter or valley gutter in accord with standard details on file in the office of the City Engineer.
  3. On all streets, including side streets and alleys, a suitable hard surfaced permanent type of pavement shall be installed, meeting the requirements of the City of Birmingham standard specifications. The developer's engineer shall design a pavement buildup based on a twenty year design life, on existing soil conditions and anticipated traffic.
  4. Any off-road bike paths and/or pedestrian ways shall have been paved with a suitable hard surfaced material meeting the requirements of the *City of Birmingham Standard Specifications*, latest edition.
  5. All required utilities and service connections shall have been constructed prior to installation of paving with all mains being extended and all lots having sufficient utility service stub-outs to ensure no subsequent cutting of pavement. All required utilities, except storm and sanitary sewer systems, shall be constructed beyond the back of sidewalk. Where septic tanks are necessary, if required by the responsible County agency or other sewer authority, sanitary sewers shall also be installed and capped until such time as connection may be had with a sanitary sewer system.
  6. All required sidewalks shall have been constructed.
  7. Adequate storm sewers shall have been constructed, subject to the provisions of Article 5.
  8. Subdividers shall have installed or paid for street signs and streetlights, and traffic control signals or similar signage as approved by and at points designated by the Traffic Engineer.
  9. All right-of-way grading and required public improvements, including necessary seeding, and removal of debris from all public areas, shall have been completed.
- B. The owner(s) shall also submit an instrument, approved by the City Attorney, in form for recording, which offers an irrevocable dedication of all lands and improvements into governmental ownership as needed and designated on the final plat for public use, including any streets, ways, easements, utilities, grounds and parks, in perpetuity.

## **6.2 Bond and Surety: Amount and Release.**

- A. In the event it is decided by the Subdivision Committee that the requirements set out in Section 6.1A of this Article need not be immediately met by the subdivider, the requirements may be deferred by temporary waiver, upon the execution of a subdivision improvement agreement with the subdivider, as approved by the City Attorney, to run with the land, binding any future owners. That instrument shall require that all such improvements be installed and constructed within the length of time specified in Section 6.3 of these regulations, and the subdivider shall maintain said improvements and shall guarantee the work to be free from defect of materials or workmanship for a period of one year following the acceptance of dedication by the City Council. A performance Bond shall be required by the City Engineer to insure the fulfillment of such agreement, and shall be in cash, by certified or cashier's check, acceptable certificates of deposit, irrevocable letters of credit, or made by a surety company authorized to do business in the state of Alabama. Upon submission of satisfactory bond or surety to the City Engineer, said surety and the subdivision improvement agreement, and the final plat can be recorded in Probate Court.
- B. Such bond shall be in an amount equal to one hundred fifteen per cent (115%) of the estimated cost of the improvements. Bond amounts shall be reviewed annually and may be adjusted to ensure adequate funds are available for the completion of the remaining required improvements.
- C. The surety shall not be released from said bond except by a release in writing from the City Engineer.
- D. In the event the developer does not cause to be installed the infrastructure improvements required by these regulations within two-years, of the approval of the final plat and a time extension is not granted by resolution of the Subdivision Committee, the City shall cause the improvements to be installed and shall pay for said improvements by redeeming the bond submitted by the developer as required by these regulations for the purpose of ensuring the installation of the required infrastructure improvements.

**6.3 Time Limit on the Construction of Infrastructure Improvements.** Any infrastructure improvements required by these regulations shall be completed within two-years of approval of the final Plat, unless a time extension is granted by resolution of the Subdivision Committee.

#### **6.4 Maintenance Bond.**

- A. When required improvements are completed, or else are assured of completion as provided in Section 6.2 above, if the City Engineer has reasonable doubts concerning the stability or proper construction of such improvements, he may require a maintenance bond in the amount of 100% of the estimated cost of said improvements. This shall extend for up to five years from the date of actual completion, or beyond the term secured by the performance bond, in order to cover any additional costs of street construction, repair and maintenance, and for one year beyond such completion dates for maintenance of sewer lines and other facilities. This bond shall be in cash, by certified or cashier's check, acceptable certificates of deposit, irrevocable letters of credit, or be made by a surety company authorized to do business in the state of Alabama, as may be approved by the City Engineer.
  
- B. The City Engineer shall secure from all developers a letter or statement in which said developer shall agree to maintain the backfill and any improvements located thereon or therein of any ditch which has been dug in connection with the installation of such improvements and such letter or statement shall be binding on the developer for a period of one year after the acceptance of such improvements by the City of Birmingham.
  
- C. Maintenance bond amounts shall be reviewed annually and may be adjusted to ensure adequate funds are available for the repair or replacement of any potential failure of required improvements.

**6.5 Acceptance of Dedicated Streets, Ways and Grounds.** After final completion of all required improvements, and receipt of the subdivider's one year maintenance warranty, and submission of enforceable surety for any additional maintenance to the satisfaction of the City Engineer, the City Council may adopt an ordinance, prepared by the City Attorney, accepting the dedication of all public streets, ways and public grounds as designated on the final plat for public right-of-way or other property to be owned by the City of Birmingham. Said ordinance shall be published as required by law, and recorded along with the owner's dedicatory instrument in the office of the Probate Judge of the county in which the subdivision is located.

End of Article

## **ARTICLE 7 – WAIVERS, EXCEPTIONS and APPEALS**

### **7.1 APPLICATION OF REGULATIONS IN SPECIAL SITUATIONS.**

- A. The intent of these regulations is to promote a balanced and sustainable pattern of physical and economic development for the long term health, safety and general welfare of future lot owners in new subdivisions, as well as for the community at large. In furtherance of the overall purposes noted in Section 1.2, and the criteria for approval and disapproval of subdivisions listed in Section 3.11, similarly situated lands shall be treated consistently within their appropriate context.
  
- B. The uniform application of some provisions of these regulations to particular properties having peculiar shapes or physical features, or affected by special circumstances may occasionally incur undue hardships, practical difficulties, or actually fail to accomplish the differing aims of certain regulations. Relevant conditions may always be attached to the Planning Commission’s or Subdivision Committee’s approval of preliminary plans and final plats in the interest of fairness, efficacy and safety; and these are also the primary bases justifying the grant of any waivers or exceptions to the terms of these regulations.

### **7.2 REQUESTS FOR WAIVERS AND EXCEPTIONS; CONDITIONS OF APPROVAL.**

- A. A written petition for any desired waiver or exception to these regulations shall be included with the application for preliminary plan or final plat review, as noted in Section 3.2. It shall be submitted on forms supplied by the staff of the Director, who shall forward one (1) copy of said petition to the City Engineer, and one (1) copy to the Traffic Engineer, immediately upon acceptance of a completed application, and prior to its inclusion on the agenda for the next regular scheduled meeting of the Subdivision Committee. The petition shall cite the applicable section from which relief is sought, and state fully the grounds in support of the requested waiver or exception, with all supporting facts relied upon by the petitioner. A request for a waiver must show why a required provision is not applicable or fully necessary in the particular situation. A request for an exception must show how the alternate proposal will accomplish the objectives as well as or better than the required provision.
  
- B. In accord with Federal Highway Administration’s guidance for “due consideration” of bicycle and pedestrian facilities, exceptional circumstances must be shown to justify an exemption from such requirements. The applicant must submit a written petition for waiver or exception to explain the exceptional circumstance. Exceptional circumstances are defined as:
  - 1. Bicyclists and pedestrians are prohibited by law from using the roadway.
  - 2. The cost of establishing bicycle or pedestrian facilities would be excessively disproportionate to the need or probable use, (Excessively disproportionate exceeds twenty percent of the larger transportation project).

3. Sparse population or other factors indicate an absence of existing or future needs. The Planning Commission should consider the context of the project setting, such as proximity to residential, retail areas, high employment areas, parks and greenways, schools, transit, and similar situations that would benefit by bicycle and pedestrian access and the approved bicycle route plan.
- C. In granting any waiver or exception, the Subdivision Committee shall only approve the minimum necessary for the feasible and appropriate utilization or development of the property, and may attach such reasonable conditions as it deems necessary for the protection of the surrounding property, substantially maintaining the objectives of these regulations, in achieving the greater public interest.
  - D. Any condition shown on the plat or engineering plans or other information specified in Article 3 or Article 5 which would necessitate a waiver or exception, shall constitute grounds for disapproval of the plan or plat, if such relief is not applied for, justified and subsequently granted.

### **7.3 GRANTING OF WAIVERS AND EXCEPTIONS**

- A. If it is determined from all the evidence submitted, and a review of any recommendations by the Traffic Engineer, City Engineer or Director, that extraordinary and unnecessary hardships or practical difficulties would result from strict compliance with specific provisions as applied to particular locations or unusual situations, or that the aims and purposes of these regulations may be better served by an alternate proposal, then the Subdivision Committee or Planning Commission, upon a favorable recommendation by the City Engineer, Traffic Engineer and the Director may approve certain waivers or exceptions, attaching such conditions as may be found necessary. The granting of such relief shall comply with all of the following standards:
  1. not be detrimental to public safety, health or welfare; and
  2. not be injurious to other property in the vicinity; and
  3. not have the effect of nullifying or conflicting with the purposes and criteria cited in Sections 1.2 and 3.11 of these regulations; and
  4. not be in conflict with the aims and goals of the Zoning Ordinance, the Major Street or Bicycle Plan, or any elements of the Official Comprehensive Plan; and that
  5. the factors of the public interest supported by the proposed waiver or exception outweighs the public interests served by the particular requirement involved; and also
  6. the grant conforms to and supports the spirit and intents of these regulations.
- B. However, if a requested waiver or exception has not received a favorable recommendation from the City Engineer, Traffic Engineer and the Director, then the Subdivision Committee or the full Planning Commission may nevertheless grant such waiver or exception, specifying the justifications therefore, only by a unanimous vote of members present at the Subdivision Committee and a three-quarters (3/4<sup>th</sup>) majority vote of members present at a full Planning Commission meeting. Definite provisions governing the grant of certain waivers and exceptions, under prescribed circumstances, are detailed in several Articles of these regulations.

In all cases, requests for waivers or exceptions shall be interpreted as described below, with additional guidelines for approval as follows:

1. Waivers may set aside any provision, in whole or in part, affecting procedures or improvements, or postponing enforcement under particular contingencies, only if and when such a requirement is demonstrated to be unnecessary, inapplicable or of no public benefit, because of unique physical conditions, natural topographic conditions, surrounding development patterns, or other special circumstances affecting a particular subdivision proposal.
  2. Exceptions may allow unusual or innovative development designs, methods, materials or types of improvements as an option, only if they meet or exceed normally required performance standards; and they should be encouraged where they support environmental quality, conservation, energy efficiency, historic preservation or other public benefits, particularly in conjunction with flexible zoning districts formulated to achieve compact, diverse and sustainable neighborhoods.
- C. Evaluation of any requests requires that no waiver or exception shall be granted to:
1. Design standards in Article 5, 6, 10 or related engineering requirements cited in Section 3.6, unless the applicant demonstrates to the satisfaction of the City Engineer, through technical documentation or studies based on generally accepted engineering principles, that the alternate proposal meets health, safety and reliability standards equal to or greater than the pertinent requirements herein; and
  2. Any provisions of Article 3 or the layout patterns in Article 5, unless the applicant demonstrates to the satisfaction of the Director, through technical documentation or investigative studies that the alternate development proposal does not pose a threat to health or safety, that it mitigates any deleterious effects, and it provides public benefits equal to or greater than the pertinent requirements herein.

**7.4 APPEALS TO THE PLANNING COMMISSION.** In accord with the notice and hearing procedures set forth in Section 3.11, the Planning Commission shall hear and decide on all appeals by any party aggrieved or adversely affected, including governmental officials, or agencies of the City of Birmingham, where it is alleged that:

- A. There is an error in any written order, requirement, decision, interpretation, or determination made by an official responsible for enforcing these regulations, or
- B. Any particular provision of these regulations conflicts with another specified federal, state or local law; or
- C. Any action by the Subdivision Committee to approve in whole or in part, to approve with conditions, or to disapprove any subdivision or any request for a waiver or exception, would injure the rights of the applicant, or owners of nearby property, or conflict with the duties of officials charged with protection of the public interest, including health, safety, transportation, utilities, environmental or natural resources, or other facilities or services.

End of Article

## **ARTICLE 8 - VACATION OF PUBLIC RIGHTS-OF-WAY**

**8.1 APPLICATIONS.** Where owners of property abutting any portion of a street, alley, or other public way within the City of Birmingham, may desire the vacation of such abutting right-of-way, to combine it with or add it into private property, they may request its annulment and vacation from public use and ownership by filing an application for hearing before the Subdivision Committee.

- A. Applicants proposing to vacate any portion of the right-of-way of public streets, alleys, or public ways, shall apply in the office of the staff of the Director, paying the one-hundred dollar vacation application fee, and submitting five (5) copies of a vicinity sketch showing the right-of-way proposed to be vacated. A completed *Declaration of Vacation* must be submitted, signed by all owners of property abutting the portion of right-of-way requested for vacation. A notification list must be furnished identifying the names and addresses, as shown in the county tax assessor's office, of all owners of property abutting the portion of right-of-way proposed for vacation, and all owners of property adjoining any right-of-way to remain in the same block or adjoining block face, where access rights may be affected.
- B. Applicants for a vacation may, at the same time, apply for a resubdivision of the affected properties, submitting a final plat and Five (5) copies thereof, showing the old property lines being removed and new property lines as proposed to be established. Whether applying for final plat approval simultaneously or subsequently, all required fees, procedures and notices to owners of property adjoining the subdivision shall be followed in accord with the provisions of Section 3.
- C. The staff of the Director shall transmit the sketch, with a request for evaluation of impacts of the proposal on current and potential public needs, to the City Engineer, Traffic Engineer, Fire and Rescue Service and other public agencies and utilities which may have jurisdiction over the surrounding area, such as power and telecommunications companies, water works and sewer authorities, gas companies, county engineers, traffic engineers, and any other organizations which may have existing improvements or subsidiary rights, easements, or responsibilities for exclusive or public access in the vicinity.
- D. Neither the City of Birmingham, nor any officers, agent, or employee of the City acting in his official capacity, nor any agency of the City shall be required to pay a fee under this Article.
- E. Notice of the date, time and location for the hearing by the Subdivision Committee (or Planning Commission, if the proposal affects the Major Street Plan or other elements of the City's Comprehensive Plan) shall be sent by certified mail to the applying owners, and any other owners of property abutting the subject street or way, as cited in Subsection 8.1 A. above, not less than seven days before the scheduled public hearing on the vacation request.

## **8.2 INVESTIGATION AND RECOMMENDATION.**

- A. The staff of the Director shall distribute copies of vicinity sketches and plats as provided in the case of regular subdivision applications. In addition to reviewing responses from owners of nearby properties, and various public and private agencies and utilities which might be affected, the staff shall investigate existing improvements or uses on the land proposed for vacation, and the surrounding environs, evaluating potential access needs or impacts on future plans in the vicinity. This background information shall be evaluated in preparing a draft report for consideration by the Director and City Engineer, whose written recommendations shall be submitted to the Subdivision Committee.
- B. Any citizen aggrieved by the proposal may submit a written objection, and may request to be heard at the hearing. The vacation shall not deprive other property owners of any right they may have to convenient and reasonable means of ingress and egress to and from their property; and if that right is not afforded by the remaining streets and alleys, another street or alley segment must be dedicated to maintain such access.
- C. Upon hearing the application, any public comments, and the recommendations from the Director and City Engineer, the Subdivision Committee shall make its recommendations to the City Council as to whether said proposed vacation is in the best interest of the City.

**8.3 PROCEDURE FOR CITY COUNCIL HEARING.** In accord with *Ordinance No. 05-208*, within ten days after receiving written notice of the Subdivision Committee's recommendation, the applicant shall submit both a twenty-five hundred dollar advertising fee and a vacation of right-of-way fee to the staff of the Director, in order to proceed to a hearing before the City Council.

- A. The amount of the vacation of right-of-way fee shall be one-third of the combined value of the area to be vacated, as determined by multiplying the assessed value per square foot of all subdivision lots or tracts abutting that portion of the street or public way proposed for vacation times the square foot area of the land to be added to the real property of each abutting landowner as a result of the vacation.
  - 1. The Council may reduce or waive this amount for businesses based on economic benefits to the City as described in *Section 4-5-84(c), of the General Code of the City of Birmingham*, and
  - 2. The vacation of right-of-way fee shall be waived for governmental agencies and not-for-profit organizations receiving exemption from state ad valorem taxes by the county tax assessor.
- B. On receipt of all required fees, the staff of the Director will send the Subdivision Committee's recommendations, the *Declaration of Vacation*, and a draft of the *Resolution of Assent*, to the City Council, for its consideration at a public hearing to be held within the next ninety days.

1. Notice of the hearing shall be published in a newspaper of general circulation once a week for four consecutive weeks prior to the date of the hearing.
  2. Written notice of the hearing shall also be mailed, at least thirty days prior to the hearing, to all utilities and owners of property abutting any portion of the street or way proposed for vacation, including any remaining portions, whether or not that part of the street is included in the vacation request.
  3. A copy of the notice shall be posted on a bulletin board at the county courthouse.
- C. If the Council refuses assent to the vacation, the vacation of right-of-way fee shall be returned to the applicant.
- D. If approved, assent to the vacation by the Council shall be evidenced by a resolution, certified by the City Clerk, and attached to the declaration of vacation for recording in probate court.
1. If the Council sets a lower vacation of right-of-way fee than originally computed, the difference shall be refunded to the applicant.
  2. Within thirty days after the Council acts on the vacation, if actual costs for advertisement and notices are less than the set twenty-five hundred dollar fee, the City shall reimburse the overpayment to the applicant; if the actual costs are higher than said fee, the applicant shall reimburse the City for the shortage before the record plat can be recorded.
  3. Notice of the Council's action of the request shall be published once in a newspaper in the county no later than fourteen days after its adoption.
  4. The *Declaration of Vacation* and *Resolution of Assent* shall not be recorded in Probate Court until a final plat has been approved, incorporating the vacated land into the abutting lots.

#### **8.4 FINAL PLAT OF RESUBDIVISION.**

- A. Since the effect of vacating public ways necessitates establishment of new property lines for abutting properties which incorporate portions of such vacated ways, the applicant shall, within three months after the passage of the resolution assenting to the vacation thereof by the Council, submit a final plat, in accord with Section 3, removing old property lines and establishing new ones, for approval by the Subdivision Committee.
- B. Entities with utility lines, equipment or facilities in place at the time of vacation, shall retain an easement thereon, to be noted on the plat, keeping the right to continue to maintain, extend, and enlarge their lines, equipment, or facilities to the same extent as if the vacation had not occurred.
- C. Said final plat shall show the vacated land in dotted lines, with reference to the deed book and page where the instruments of vacation are recorded. And the final plat shall comply with all other applicable requirements of these regulations.

End of Article

## **ARTICLE 9 – CONDOMINIUM DEVELOPMENT**

**9.1 APPROVAL REQUIRED.** No building or grading permit shall be issued for a new or expanded condominium, or conversion of an existing building for subdivision into separable residential or nonresidential ownership units, except in compliance with all provisions of this Article.

**9.2 APPLICABILITY.** This Article governs the subdivision of real or personal property into two or more units of property by one or more owners, in which owners of all individual units will share an undivided interest in the building, premises and all remaining common elements of the subdivided land.

**9.3 APPLICATION PROCEDURES.** Application for final plat hearings on a condominium subdivision and condominium plan shall be filed with the staff of the Director according to procedures in Article 3 of these regulations. Plats and any public improvements shall comply with Articles 4 through 6, and identify each unit designated for individual ownership and exclusive occupancy, as well as all undivided interests in common elements, limited common elements and other areas or improvements to be shared by all unit owners. Further documentation shall include:

- A. Site development plan and condominium plan. Three (3) copies of detailed plans, to scale, fully dimensioned showing all structures, principal uses, roads, all traffic control devices, recreational area, sidewalks, lighting, parking spaces, service areas, trash receptacles, curbs, drainage, signs and landscaping; indicating relations among buildings, structures, utilities, site improvements and open spaces.
- B. Three (3) sets of condominium architectural plans, to scale, fully dimensioned, keyed to legal descriptions, including elevations, cross sections; all units, their size and locations, typical separation of units; all common areas, with corridors, stairs, elevators, and main utilities; the proposed uses, such as office, meeting rooms, storage or maintenance for all portions of proposed buildings and structures. One set shall be referred to the Inspection Services Division of the Department of Planning, Engineering and Permits for pre-review and recommendations by the assigned plans examiner.
- C. If phased as part of a larger project, three (3) copies of Conceptual plans for the ultimate development of the entire property.
- D. Three (3) copies of the Articles of Incorporation, and the Declaration of Condominium, with bylaws, all protective covenants and restrictions, and subdivision plats, that comply with the guidelines of Title 35, Chapter 8A, the *Alabama Uniform Condominium Act of 199,1* as amended.

**9.4 ACCEPTANCE OF APPLICATION AND FILING FEES.** No application shall be accepted which does not conform to all zoning requirements. The subdivider shall pay an additional fee of one-hundred dollars for the filing of each condominium project application, as noted along with the normal final plat fees listed in Section 3.7; such charges to be paid upon submission of an acceptable application.

**9.5 HEARING AND NOTICE.** On receipt of a completed application, the Subdivision Committee shall hold a public hearing on the subdivision and condominium plan, following the same notice and procedures as established in Article 3 of these regulations.

**9.6 EVALUATION AND ACTION ON SUBDIVISION.** The staff of the Director shall investigate and summarize the issues bearing on the proposal, attaching recommendations from the City Engineer, Traffic Engineer, Fire Marshall, and Chief of Inspection Services to the Subdivision Committee. After hearing, and review of all information by the applicant and public comments, the Commission shall approve, approve conditionally, or disapprove condominium plans and the final plat, noting the grounds therefore, in accord with Articles 1 and 3 of these regulations.

**9.7 EFFECT OF PLAN APPROVALS, AND RECORDING.**

- A. Subdivision Committee approval of the final plat shall be conditioned, at a minimum, on subsequent submission of surveyed final building and site plan. Approval of the condominium plans and final plat authorizes the issuance of building, grading and other permits in compliance therewith, and the construction of all improvements on the property.
- B. After installation of any public improvements to the satisfaction of the City Engineer; the completion of all construction, and filing of surveyed final building plans; and certification by the Director as to compliance with all conditions; then the surveyed final building plans, site development plans and final plat shall be filed with the Declaration of Condominium, articles of incorporation of the property owners association, and bylaws, for recording in the office of the Probate Judge in the county where the property is located. This authorizes conveyance of the individual units.

**9.8 EXPIRATION OF APPROVAL.** Each approval or conditional approval authorized under the provisions of this Article which is not acted upon, and actual construction has not commenced on the buildings, or structures involved, within twenty four (24) months from the date of its conditional final plat approval, shall become null and void. In the event substantial construction work has occurred, a twelve (12) month extension may be granted by the Director, and must be diligently continued to completion.

**9.9 AMENDMENTS.** Whenever the subdivision map and plans as required herein have been recorded, and where there are intended changes in size, shape or location of buildings, type of structures or uses, creation of additional units, expansion of the project, merger, consolidation, or termination of the condominium form of ownership, then an amendment to the recorded map shall be requested as a resubdivision or new subdivision in compliance with the same procedure as set forth in the filing and recording of the original application.

No new hearing will be required for small revisions in compliance with zoning, not requiring expansion of the building. Upon favorable recommendation by the Chief of Inspection Services, the Director may approve and record minor plat changes in boundaries between existing units involving no more than three additional units, when requested by the affected owners, and approved by the condominium unit owners association, amending their Declaration of Condominium.

End of Article  
End of Regulations

## APPENDIX A

ADOPTED MAY 7, 2003

### BYLAWS

of the

### BIRMINGHAM PLANNING COMMISSION

#### Article I      **General Provisions**

a.      Title

The organization to be governed by these bylaws shall be known as the Birmingham Planning Commission, hereinafter referred to as "Commission."

b.      Authority

The Commission is established and operates under authority granted by the Alabama State Legislature as set forth in Title 11, Chapter 52, Code of Alabama, 1975 as amended.

c.      Office of Commission

The office of the Commission shall be located in Birmingham City Hall. Copies of all official documents, records, maps, tapes and other relevant information shall be filed and maintained in the City's Department of Planning, Engineering and Permits.

#### Article II      **Membership**

a.      Composition

The Commission shall consist of sixteen (16) members. Twelve (12) of the members shall be composed of citizens appointed by the Birmingham City Council. The four remaining members shall be ex-officio members including: the Mayor, an administrative officer selected by the Mayor, and two members of the Birmingham City Council selected by said Council.

In addition to regular members, the Mayor and each of the City Council members serving on the Commission may appoint, from their administrative staffs

exclusively, a supernumerary member who shall be authorized to act with all of the power and authority of a regular member whenever such municipal official is not in attendance.

b. Qualifications

Each appointed member shall be a resident of the City of Birmingham. The Commission's appointed citizen members shall not be city employees or publicly elected officials.

c. Terms of Members

The term of each appointed member of the Commission shall be six (6) years or until a successor takes office. If a member resigns or is excused from the Commission before the end of a term, the City Council may appoint a substitute member to fill the vacancy for the duration of the vacated term. A member whose term expires may continue to serve until a successor is appointed. Members may be appointed for more than one term.

The term of the ex-officio administrative member selected by the Mayor shall end with the Mayor's term of office or when the Mayor designates a replacement. The terms of the ex-officio members selected by the City Council shall end with their term as a member of the City Council or when the City Council designates different Council representatives. The term of the Mayor shall end with his/her term of office or upon a resignation from the office.

d. Removal from Office

Appointed members may, following a public hearing, be removed by the City Council for inefficiency, neglect of duty, or malfeasance in office. Vacancies occurring other than through the expiration of a term shall be filled for the unexpired term by the City Council, with the exception of the Mayor and the administrative member selected by the Mayor.

e. Compensation

In accord with the provisions of Act No. 672 of the Alabama State Legislature, dated April 25, 1994 and City of Birmingham Ordinance No. 94-251, dated

November 29, 1994, all appointed members of the Commission shall be compensated twenty-five (25) dollars for each regular meeting of the Commission or special committees attended, with each member being eligible to receive a maximum amount of no more than fifty (50) dollars per month.

f. Attendance

Each citizen appointed Commissioner shall attend at least 75 percent of all regularly scheduled meetings of the Birmingham Planning Commission, and also 75 percent of all regularly scheduled meetings of said Commissioner's assigned standing committee (Zoning Advisory or Subdivision Committee). However, when any such Commissioner attends a meeting of an unassigned standing committee where requested in order to establish a quorum, this attendance shall nullify an absence from an assigned standing committee meeting.

If any such Commissioner shall miss two (2) meetings of the Planning Commission or three (3) meetings of an assigned standing committee within any six month period or less, the Chairman, acting on behalf of the Planning Commission, shall advise said member of his or her attendance record in writing, counseling against excessive absences in the future. If within any twelve (12) month period, any member shall miss four (4) Planning Commission meetings or seven (7) assigned standing committee meetings, the Chairman, acting on behalf of the Planning Commission, shall submit a written recommendation to the City Council, via the Chairman of the Council's Planning and Zoning Committee, that the City Council take appropriate action in accord with state law to remove said member.

**Article III Officers and Other Appointed Positions and Their Duties**

a. Chairman

A Chairman shall be elected from the citizen appointed members by a majority of the members of the Commission. The term of the Chairman shall be for two (2) years beginning with the date of election, with eligibility for re-election. The Chairman shall preside at all meetings and hearings by the Commission, decide all points of order and procedures, call special meetings of the Commission, assign Commission or other members

to special non-standing committees, and perform any duties required by law, these rules, or the Commission.

b. Vice-Chairman

The Commission shall elect a Vice-Chairman from among its appointed citizen members in the same manner and for the same term as the Chairman. The Vice-Chairman shall perform all of the duties of the Chairman during the absence or disability of the Chairman, and shall be eligible for re-election.

c. Chairman Pro Tempore

The Commission shall elect a Chairman Pro Tempore from among its appointed citizen members in the same manner and for the same term as the Chairman. The Chairman Pro Tempore shall perform all of the duties of the Chairman during the absence or disability of both the Chairman and the Vice Chairman, and shall be eligible for re-election.

In the absence of all three Commission officers, a member designated by a majority vote of the members present shall serve as interim Chairman for that meeting.

d. Other Officers

Other officers as may be appointed shall have such authority and perform such duties as, from time to time, may be assigned by the Chairman.

e. Vacancies

If an elected office becomes vacant by reason of death, resignation, or any other reason, the Commission shall elect, by a majority vote of the members present at the next regular meeting, a successor to hold office for the unexpired term.

f. Secretary

The Director of the Planning, Engineering and Permits Department or his/her designee shall serve as Secretary to the Commission. The Secretary shall perform the administrative and clerical functions of the Commission and shall keep a record of each meeting as well as records of all resolutions, transactions, findings and determinations. The Secretary shall also be responsible for handling all correspondence and notices for the

Commission and other administrative duties and responsibilities necessary for the Commission to conduct its affairs.

#### **Article IV    Nomination and Election of Officers**

a.     Nominations

Nominations of officers shall be made by a three-member Nominating Committee appointed biennially by the Chairman at the Commission's November meeting. The Committee shall make its report and recommendations to the full Commission at an organizational meeting to be held on the following December. In addition to the recommendations of the Nominating Committee, nominations may be made by any member at the organizational meeting. Candidates shall be limited to citizen appointed members of the Commission.

b.     Election

The election of the Commission's officers shall immediately follow the nomination process. A candidate receiving a majority vote of the members present shall be declared elected and shall serve for a term of two years or until a successor takes office.

c.     Vacancies

Vacancies in offices shall be filled by the election procedures described in the Commission's bylaws.

d.     Resignations

Resignations from the Commission shall be in written form and transmitted to the Chairman who will then forward the same to the Chairman of the City Council's Planning and Zoning Committee.

#### **Article V    Committees**

Committees may be created from the Commission's membership with such authority as shall be designated by the Commission.

a.     Standing Committees

To assist the Commission in the performance of its duties and responsibilities, specific standing committees shall be created to administer the affairs of the Commission and to evaluate and render decisions on behalf of the full Commission.

1. Executive Committee

The Executive Committee shall be composed of the Chairman, Vice-Chairman, Chairman Pro Tempore, an at-large Commission member appointed by the Chairman, the Chairman of the City Council's Planning and Zoning Committee or his/her designee, and the Commission's Secretary, who shall serve as a non-voting advisor to the Committee. The Committee shall act on all matters concerning administrative procedures, financial affairs, and personnel issues involving Commission members.

2. Zoning Advisory Committee

The Zoning Advisory Committee shall be composed of seven (7) appointed members from the Commission membership. The members shall be elected at a biennial organizational meeting to be held in December based on the election procedures outlined under Article IV of these bylaws. Service on the Committee shall be for two years with members being eligible for re-election. The Committee shall elect its own officers and shall be governed by separate rules of procedure authorized under City Ordinance No. 1800-F, as amended by Ordinance No. 1817-F. The Committee shall hold its meetings on the first and third Tuesday of each month in Birmingham City Hall unless rescheduled by a majority of the members present due to holiday conflicts or other circumstances. A quorum of the Committee shall consist of four (4) members. In the event that a quorum of the members cannot be present for a meeting, the Chairman of the

Commission may designate a member from the Subdivision Committee to serve on the Committee in order to establish a quorum for that meeting.

This Committee is organized to advise the City Council directly on all applications for changes in the Zoning Ordinance and the Zoning District Map as well as the review and approval of development Plans. The Committee is authorized to act on behalf of the Commission, with no provisions for an appeal of its decisions to the full Commission. All recommendations regarding the initial zoning of properties annexed into the City of Birmingham from unincorporated areas shall be the responsibility of the full Commission.

### 3. Subdivision Committee

The Subdivision Committee shall be composed of five (5) members from the Commission's citizen appointed membership. The members shall be elected at a biennial organizational meeting to be held in December based on the election procedures outlined under Article IV of these bylaws. The Committee shall elect its own officers and shall be governed by separate rules of procedure authorized under the provisions of Section 30 through 36 of Title 11, Chapter 52, Alabama, 1975. Service on the Committee shall be for one year with members being eligible for re-election.

The Committee shall hold its meetings on the second and fourth Wednesday of each month in Birmingham City Hall, with the exception of the months of November and December when the committee shall meet on the third Wednesday of each month or unless rescheduled by a majority vote of the members present. A quorum of the Committee shall consist of three (3) members. In the event that a

quorum of the members cannot be present for a meeting, the Chairman of the Commission may designate a member from the Zoning Advisory Committee to serve on the Committee in order to establish a quorum for that meeting.

This Committee is organized to review proposals for subdividing land, combining lots, or vacating/dedicating public rights-of-way. While the Committee has the authority to approve subdivisions, the vacation or dedication of public rights-of way can only be approved by the City Council. A case can be referred to the full Commission by either the Committee or through an appeal process by an applicant or an aggrieved party.

b. Other Committees

Special committees may be appointed by the Chairman for purposes and terms which the Commission approves. At least three (3) members of the Commission shall constitute an appointed committee. The Chairman may appoint non-Commission members with specific knowledge and expertise in a subject area to serve with Commission members on such committees. The committees may function for extended periods of time or may be terminated by the Chairman once they have performed their functions.

1. Project Review Committee

The Project Review Committee shall be composed of the five (5) Commission members comprising the Subdivision Committee, as well as at least four (4) voting ex-officio members appointed by the Chairman which may include: the City Engineer, the Traffic Engineer, the City Architect, and the Chairman of the City Council's Planning and Zoning Committee or his/her designee. A quorum of the Committee shall consist of

five (5) members. The Committee shall meet as needed on the second and fourth Wednesday of each month in Birmingham City Hall.

This Committee is organized and authorized to review public facility proposals for recommendations to the full Commission, and to review and approve on behalf of the Commission minor additions, alterations or modifications to existing public facilities or utilities. Major public facility projects must be reviewed and approved by the Commission. The decisions of the Committee can be appealed to the full Commission.

2. Comprehensive Planning Committee

The Comprehensive Planning Committee shall be composed of the seven (7) Commission members comprising the Zoning Advisory Committee. A quorum of the Committee shall consist of four (4) members. The Committee shall meet as needed. This Committee is organized to review in-depth elements of the City's Comprehensive Plan, neighborhood improvement plans, urban renewal and urban redevelopment plans, and other long-range plans, programs, or studies affecting the physical development of the City and to report its findings and recommendations to the full Commission. The decisions of the Committee are for advisory purposes only.

**Article VI** Meetings

a. Quorum

A majority of the members of the Planning Commission (nine members) shall constitute a quorum for the beginning of a meeting and for the purpose of conducting business.

b. Regular Meetings

Regular meetings of the Commission shall be held on the first Wednesday of each month at 8:30 a.m. in the City Council Chamber in Birmingham City Hall. In the event of a conflict with holidays or other events, a majority vote of the members may change the time, date or place of the meeting, if so decided at the previous meeting.

c. Pre-Hearing Meetings

The Commission may hold a meeting immediately preceding the regular meeting to discuss with staff the details of items scheduled to be considered. The public may attend such meetings based on the State's open meeting law, but may not participate in discussions.

d. Special Meetings

Special or non-regularly scheduled meetings of the Commission may be called at any time by the Chairman or by a majority of the voting members of the Commission present at a meeting. All members shall be notified in writing of the purpose, time, date, and place of the meeting at least seventy-two (72) hours in advance. At such special meetings no business shall be considered other than that designated in the notification.

e. Work Sessions

The Commission may hold work sessions with staff and others to discuss items of common concern, receive training, and review staff project assignments by the Commission. The public may attend all work sessions but participation in discussion shall be by consent of the Chairman. All members shall receive at least seventy-two (72) hours advance notice of the purpose, time, date and place of the work session.

f. Cancellation of Meetings

In instances where there are no applications, public hearings, cases or other business requiring consideration or action by the Commission, the Chairman, in consultation with Commission staff, may dispense with a regular meeting by giving written or oral notice to all members.

g. Conduct of Meetings

All meetings shall be open to the public. Robert's Rules of Order shall govern the Commission and its committees.

h. Order of Business

Unless otherwise determined by the Chairman, the general order of business at regular meetings shall be:

1. Call to order
2. Roll Call (Determination of Quorum)
3. Approval of Agenda
4. Approval of Minutes
5. Committee/Official Reports
6. Public Hearings
7. Other Business
8. Adjournment

i. Agenda

1. An agenda for each regular meeting of the Planning Commission shall be prepared by the Secretary.
2. The agenda, along with information pertinent to each scheduled public hearing case and other business matters, shall be mailed to each Planning Commissioner at least five business days before the meeting, allowing sufficient opportunity for the Commission to visit each site and review case files. All files and records of the Commission shall be open and made available to the public.
3. A sufficient number of agendas shall be available to the public at the regular meeting.
4. Only those items on the regular meeting agenda shall be discussed during the meeting. However, any additional item

may be placed on the agenda with the approval of the Chairman. This provision does not apply to items where a public hearing and public notice is required by law.

j. Voting

A majority vote of the members present at a meeting and constituting a quorum shall be necessary to decide any item of business requiring action by the Commission, with the exception of the adoption of the City's Master Plan or amendments to said Plan which shall be approved by the affirmative vote of at least twelve (12) members as required by State law (Alabama Code ~ 11-52-10). The Commission may be polled, at the discretion of the Chairman, or upon the request of a Commission member, on any controversial action. All decisions of the Commission shall be shown in the record of the meeting as entered in the Minutes of the Commission. All ex-officio members of the Commission shall have full membership rights including: discussion, motions, and voting.

k. Disqualification

No member of the Commission shall participate in a hearing as a Commission member or vote as a Commission member upon any matter in which he, or his immediate family, has a personal or financial interest, either direct or indirect in nature as defined by the Alabama Ethics Law (Act No.95-194). In the event of such a conflict, a member should recuse himself from consideration of the item of business.

l. Minutes and Records

Each action of the Commission shall be recorded in the Minutes and supporting documents maintained in the office of the City of Birmingham's Department of Planning, Engineering and Permits. Each meeting shall be tape recorded and the record retained a minimum of five years. All such records shall be available to the public.

**Article VII Public Hearings**

a. General Procedures

The Commission shall hold public hearings prescribed by law in accordance with requirements set forth for such hearings in the Code of Alabama. In addition to required hearings, the Commission may hold additional public hearings when it determines that such hearings will be in the interest of the public.

Any party may appear in person or be represented by an agent at the hearing. Witnesses may be called and factual evidence submitted. The Commission may establish reasonable time limits for speakers, considering the time constraints of the meeting and the complexity of the issues. Equal time shall be granted to each side during rebuttal arguments.

b. Order of Public Hearings

Unless otherwise determined by the Chairman, the general order for conducting public hearings shall be:

1. The Chairman introduces each case by reading from the notice of public hearing;
2. Commission staff presents background information regarding the case, including a recommendation;
3. The applicant presents the case supporting the proposal;
4. Persons in favor of the proposal allowed to speak;
5. Persons in opposition to the proposal allowed to speak;
6. The applicant allowed to speak in summary or rebuttal;
7. The Commission may question the applicant, staff or other speakers at any time;
8. The Commission discusses the case and makes a decision.
9. The public hearing will be declared closed.

c. Continued Case

A case may be continued at the request of the applicant or by a majority decision of the Commission members present to a later meeting of the Commission. If a public hearing case is continued beyond ninety (90) days from the filing of the application, the case may not be heard nor a decision reached without due public notice being again provided in the same manner as for a first hearing.

d. Rehearing

An application for a rehearing may be made in the same manner as provided for in an original hearing. The application for rehearing shall be denied by a majority vote of the Commission members present if from the record it shall appear that there has been no substantial change in facts, evidence, or conditions.

**Article VIII Amendments**

a. Adoption

These bylaws/procedures shall become effective when adopted by the Commission.

b. Amendments

These bylaws/procedures may, within the limits allowed by law, be amended at any meeting of the Commission by a two-thirds vote of the voting membership of the Commission, but only after the proposed change has been read and discussed at a previous regular meeting.

**APPENDIX B**  
RULES OF PROCEDURE  
of the  
SUBDIVISION COMMITTEE  
of the  
BIRMINGHAM PLANNING COMMISSION

I. Authority

The Subdivision Committee of the Birmingham Planning Commission is established under Section 799, Title 37, 1940 Alabama Code.

Robert's Rules of Order shall govern the order of business and conduct of meetings of the Subdivision Committee.

II. Membership

Composition: The membership of the Subdivision Committee shall be composed of five (5) members elected by the Birmingham Planning Commission from its appointed membership.

Terms of Membership: Members duly elected to membership on the Subdivision Committee shall continue to serve on the Committee as long as they are legally serving as members of the Birmingham Planning Commission or until replaced by election of the Planning Commission.

Replacement: Replacement for any member of the Committee whose term of office on the Birmingham Planning Commission is terminated shall be by election from the appointed membership of the Planning Commission.

III. Officers

Chairman: A Chairman shall be elected by the members of the Subdivision Committee. His term shall be for one (1) year beginning with the date of election, and he shall be eligible for reelection. The Chairman shall decide upon all points of order and procedure, subject to these Rules of Procedure, unless directed otherwise by a majority of the Committee in session at the time. The Chairman may appoint any subcommittee deemed necessary to investigate any matter before the Committee.

Vice-Chairman: A Vice-Chairman shall be elected by the members of the Subdivision Committee in the same manner and for the same term as the Chairman. He shall serve as acting Chairman in the absence of the Chairman, and at such times he shall have the same powers and duties as the Chairman.

Secretary: The Director of Planning, Engineering and Permits or his designee shall perform the administrative and clerical functions of the Subdivision Committee. He shall keep all records and handle all correspondence and notices for the Committee.

IV. Applications

Subdivision applications shall be filed in accordance with the provisions of the City of Birmingham Subdivision Regulations.

## V. Meetings

Meeting Place and Time: Regular meetings of the Subdivision Committee shall be held in the Council Chambers of City Hall, provided, that if the Committee Chairman so directs, meetings may be held at any other location within City Hall. The Committee shall hold its meetings on the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Wednesday of each month, provided that in the event of legal holidays falling on these dates, the Committee will select an alternative meeting date prior to the holiday.

Special Meetings: Special meetings of the Subdivision Committee may be called at any time by the Chairman. At least 48 hours written or oral notice of the time and place of a special meeting shall be given to each member of the Committee.

Cancellation Meetings: Whenever there are no applications, public hearings, or other business of the Subdivision Committee, the Chairman may dispense with a regular meeting by giving written or oral notice to all members no less than forty-eight (48) hours prior to the time set for the meeting.

Conduct of Meetings: All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

- a. Roll call
- b. Approval of minutes of previous meeting
- c. Hearing of cases
- d. Unfinished business
- e. New business

Presentation or Hearing of Proposals: The following shall be the order of procedure for public hearings before the Subdivision Committee:

- a. The Chairman, or such person as he shall direct, shall give a preliminary introduction of the case.
- b. The applicant shall present the proposal before the Committee.
- c. Any persons opposed to the application shall present the argument against the proposal.
- d. Both sides will be permitted to present rebuttals to opposing testimony (at the discretion of the Chairman).

Witnesses may be called and factual evidence may be submitted, but the Committee shall not be limited to consideration of such evidence as would be admissible in a court of law. The Committee may view the premises before arriving at a decision.

Disqualification from Voting: No Subdivision Committee member shall take part in the hearing or decision of any case in which he shall be personally or financially interested. No Committee member shall vote on any matter concerning a public hearing unless he shall have attended the public hearing.

## VI. Quorum

A quorum shall consist of three (3) members of the Subdivision Committee. When less than three (3) members are present for any hearing, then an appointed Planning Commission member who serves on a Committee other than the Subdivision Committee may serve as a Subdivision Committee member in order to obtain a quorum. If a quorum is not met, then those members present shall agree to and announce the time and place for a continued hearing.

## VII. Minutes

The minutes of every meeting of the Subdivision Committee shall be kept in a permanent file in the offices of the Department of Planning, Engineering and Permits and shall be a public record. These shall show the record of every action taken by the Committee and the reason therefore. The names of members absent or abstaining from voting shall also be kept as part of the public record.

## APPENDIX C

### BIRMINGHAM PLANNING COMMISSION

#### CITY OF BIRMINGHAM

#### CERTIFIED COPY OF RESOLUTION

**SUBJECT:** A request for approval of a “Complete Streets” policy.

**PREMISES:** The City of Birmingham

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#### COMMISSION ACTION

**WHEREAS**, “Complete Streets” are defined as streets that are designed to accommodate all users – motorists, pedestrians, bicyclists, and transit riders;

**WHEREAS**, “Complete Streets” can include a range of elements to accommodate all users, including, but not limited to, sidewalks, signage, paved shoulders, bicycle lanes, traffic lanes shared with motorists including sharrows and other bicycle pavement markings, crosswalks and other pavement markings for pedestrians, pedestrian control signalization, bicycle actuated traffic signals, bus pull outs, curb cuts, raised crosswalks, roundabouts, traffic islands and other traffic calming measures;

**WHEREAS**, “Complete Streets” principles should guide future street and transportation plans for both new and retrofit projects in the City of Birmingham, and any exception to this approach should be appropriately justified;

**WHEREAS**, “Complete Street’s” application will vary depending on the surrounding land uses and densities and its general context; however street and transportation plans should always be guided by the principle that streets should promote multiple transportation options for all people;

**WHEREAS**, “Complete Streets” can spark economic development and community development by helping to create walkable, vibrant communities where businesses can thrive and be strong, livable neighborhoods for City of Birmingham residents;

**WHEREAS**, “Complete Streets” can play a role by reducing pedestrian and bicyclist injuries and deaths, reducing traffic congestion, improving air quality both by promoting alternative forms of transportation and by helping to improve traffic flow;

**WHEREAS**, the people of the City of Birmingham have expressed a strong desire for increased transportation options, including walking, cycling, and transit;

**WHEREAS**, the May 2011 edition of the *Transportation of America* pedestrian safety report entitled *Dangerous Design*, ranked Birmingham as the 16<sup>th</sup> most dangerous metro area for pedestrians; the *AARP Bulletin* released November 9, 2009 ranked Birmingham the ninth most dangerous metro area

for walkers; and *Bicycling* magazine's May 2010 edition ranked Birmingham as one of the three "Worst Cities" in America for bicycling.

**NOW, THEREFORE BE IT RESOLVED** that the Birmingham Planning Commission strongly endorses a Complete Streets approach for the City of Birmingham to enhance transportation options and to improve quality of life for the residents of Birmingham as follows:

1. The City of Birmingham shall, to the maximum extent practical, scope, plan, design, construct, operate, and maintain all City streets to provide a comprehensive and integrated network of facilities for people of all ages and abilities traveling by foot, bicycle, automobile, public transportation, and commercial vehicle.
2. Such improvements shall be consistent with and supportive of the local community, and that early consideration shall be given to any project's land use and transportation context.
3. Facilities for all users shall be considered in the construction, reconstruction, retrofit, repaving, and rehabilitation of City streets, except under one or more of the following conditions:
  - a. The project involves a roadway on which a specific use is prohibited by law.
  - b. There is a documented absence by the City of Birmingham of existing bicycle or pedestrian activity and absence of future need recognized in approved Birmingham Transportation Plan elements.
  - c. The Subdivision Regulations do not require sidewalks along the proposed street; however, some accommodations for bicycles may be needed depending on approved plans.
  - d. The costs of providing accommodation are "excessively disproportionate" to the need or probable use, as recognized by the City of Birmingham. Excessively disproportionate is defined as exceeding twenty percent of the cost of the larger transportation project. This twenty percent figure should be used in an advisory rather than an absolute sense. Claims of "excessively disproportionate" cost shall be submitted for review by the City of Birmingham.
4. The City shall, to the maximum extent practical, follow the latest adopted design standards when implementing this policy, including, but not limited to:
  - a. Guidance issued by the:
    - American Association of State Highway Officials publications including *A Guide for Achieving Flexibility in Highway Design*
    - Institute of Transportation Engineers' Recommended Practice, "*Designing Walkable Urban Thoroughfares: A Context-Sensitive Approach*"
    - *Pedestrian Right-of-Way Accessible Guidelines* (PROWAG) from the Architectural & Transportation Barriers Compliance Board
    - National Association of City Transportation Officials' "*Urban Bikeway Design Guide*"
  - b. Application of design standards shall be flexible, recognizing that all streets are not alike and that user needs should be balanced, and innovative or non-traditional design options shall be considered.
5. The City Engineer and Traffic Engineer shall develop implementation strategies that include revising and updating processes, procedures, design and construction manuals, recommended traffic control devices, standard construction specifications and other guidance to assist in this resolution's implementation.

**BE IT FURTHER RESOLVED** that the Planning Commission urges the City of Birmingham to work with Jefferson County, the Birmingham Metropolitan Planning Organization, the Alabama Department of Transportation, related advisory committees, and community organizations to achieve the goals set forth in this Complete Streets policy.

**BE IT FURTHER RESOLVED** that the Planning Commission urges the Birmingham City Council, the Mayor's office, and relevant governmental agencies to revise, adopt, and implement policies and practices to support the Complete Streets approach.

**BE IT FURTHER RESOLVED** that the Planning Commission urges the City of Birmingham to release annual reports on its progress in implementing this policy.

## APPENDIX D

U.S. Department of Transportation  
Federal Highway Administration  
Alabama Division

500 Eastern Blvd., Suite 200  
Montgomery, AL 36117-2018

June 12, 2009

Mr. D. J. McInnes  
Director  
Alabama Department of Transportation  
Montgomery, Alabama

In Reply Refer To:  
HDA-AL

Dear Mr. McInnes:

Subject: Consideration of Bicycle and Pedestrian  
Needs in Metropolitan Planning Organization  
(MPO) Long Range Transportation Plans (LRTPs)

As Alabama's MPOs are in the process of updating their current LRTPs, some points to consider in accommodating bicycle and pedestrian needs are identified below:

- e 23 United States Code 217 states that "Bicyclists and pedestrians shall be given due consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State."
- FHWA guidance on this issue states that "Due consideration" of bicycle and pedestrian needs should include, at a minimum, a presumption that bicyclists and pedestrians will be accommodated in the design of new and improved transportation facilities. In the planning, design and operation of transportation facilities, bicyclists and pedestrians should be included as a matter of routine, and the decision not to accommodate them should be the exception rather than the rule. There must be exceptional circumstances for denying bicycle and pedestrian access either by prohibition or by designing highways that are incompatible with safe, convenient walking and bicycling."

Exceptional circumstances are defined as:

- Bicyclists and pedestrians are prohibited by law from using the roadway, In this instance, an effort may be necessary to accommodate bicyclists and pedestrians elsewhere within the right-of-way or within the same transportation corridor.
- The cost of establishing bikeways or walkways would be excessively disproportionate to the need or probable use. Excessively disproportionate is defined as exceeding twenty percent of the cost of the larger transportation project. This twenty percent figure should be used in an advisory rather than an absolute sense.



- ⑨ Where sparsity of population or other factors indicate an absence of existing and future need. For example, the Portland Pedestrian Guide requires "all construction of new public streets" to include sidewalk improvements on both sides, unless the street is a cul-de-sac with four or fewer dwellings, or the street has severe topographic or natural resource constraints.

In order to comply with these requirements, the updated MPO LRTPs must, at a minimum:

- Consider the context of the project setting. In other words, MPOs should consider whether the general project area includes features like neighborhoods, shopping, schools, transit, or other facilities likely associated with the needs of bicyclists or pedestrians;
- e Consider any evidence of existing, informal bicycle-pedestrian activities. An example could be a worn, dirt path along an existing road;
- Consider any reference to bicycle or pedestrian needs in the planning process for the project area;
- Consider public, agency or other comments requesting such facilities;
- Include maps and other appropriate documentation; e.g., project listing tables, identifying specific bicycle-pedestrian projects proposed in the LRTP. The maps and documentation should be consistent with the treatment of traditional "highway" projects in the LRTP; and
- Include a policy statement that bicycling and walking facilities will be incorporated into all transportation projects unless exceptional circumstances exist. If you

have any questions, please contact Dave Harris at 334.223.7830.

Sincerely yours,

/s/Dave Harris

for: Mark D. Bartlett, P.E.  
Division Administrator

cc: Mr. Don Arkle, ALDOT                      Mr. Robert Ella, ALDOT  
Mr. Jeffery Anoka, FTA Region IV,           Alabama MPOs           File 570           Reading  
Andrews                      Capps                      Harris                      Dharris/lr 6/12/09  
G:\Guidance-Policies-Procedures \Planning \Bicycle and pedestrian consideration in MPO  
LRTPs.doc