



# ZONING ORDINANCE

OPELIKA, ALABAMA

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

SEPTEMBER 17, 1991



**ZONING ORDINANCE**

**OPELIKA, ALABAMA**

**September 17, 1991**

Revised May 27, 1996

Revised February 4, 1997

Revised July 28, 1998

Revised August 4, 2003

Revised March 25, 2010

Revised February 28, 2012

Revised September 18, 2014

Revised May 18, 2016



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## **SECTION I**

### **SHORT TITLE**

This Ordinance shall be known as the "Zoning Ordinance" and the map herein referred to identified by the title "Zoning Map of Opelika" and attested to by the City Clerk. The Zoning Map of Opelika and all explanatory matter thereon is hereby adopted and made a part of this ordinance. Such map shall be filed in the office of the City Clerk and shall show thereon the date of adoption of this ordinance.

### **SECTION 1.1 INTENT**

This ordinance has been designed to protect and accommodate competing interests in the use, enjoyment and development of land within the City of Opelika. Every possible consideration has been given to the public interest, individual property rights and the impacts, or externalities, associated with the development of land in Opelika. It is the goal of this ordinance that both the burdens and the benefits it implies be rationally and fairly distributed among the citizens and property owners of Opelika.

Changes in zoning (rezoning) may appear to reduce the certainty of protection to owners of neighboring property and to increase the potential for adverse impacts to the City of Opelika. This ordinance contains standards and procedures intended to insure that neighbors, the citizenry-at-large, and the City of Opelika are protected from adverse impacts; and that the community's general welfare is protected and enhanced. Distinctions between zoning districts are significant and are based on the policies contained in the Opelika Comprehensive Plan. The districts are sized and located to meet the needs in Opelika for preservation of stable, existing development; for improvement of declining and transitional areas; and to encourage and promote growth and long-term economic stability. This ordinance contains clear, detailed procedures for the justified change of zoning district designations, in accordance with the Opelika Comprehensive Plan, as time passes.

### **SECTION 1.2 PURPOSE**

The purpose of the ordinance is the implementation of the Opelika Comprehensive Plan, and the promotion of the health, safety, morals and the general welfare of the present and future inhabitants of the City of Opelika. Specifically, it is the purpose of this ordinance to preserve and maintain a healthful environment by providing standards and procedures to control the density of development, to control the intensity of development in areas of sensitive natural resources, and to reduce or eliminate adverse environmental impacts. Further, it is the purpose of this ordinance to regulate the location and use of buildings, structures, and land for trade, industry, residences and other uses, and to establish standards so that all the people of the City of Opelika may have access to decent, sound, sanitary and safe housing. Finally, it is the express purpose of this ordinance to lessen the danger of congestion of traffic on the streets, roads and highways of the city; to secure safety from fire, panic, flood and other dangers; to provide adequate privacy, light and air, to protect the tax base by facilitating cost effective development

within the city; to secure economy in local government expenditures; to protect landowners from adverse impacts of adjoining developments; and to divide the incorporated areas of the City of Opelika into districts according to the use of land and buildings, the density of development, the intensity of such use and development (including height and bulk), and the provision of adequate open space.

## **SECTION II**

### **DEFINITIONS**

It is the purpose of this section to define words, terms and phrases contained within this ordinance.

#### **SECTION 2.1 WORD USAGES**

In the interpretation of this ordinance, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:

- A.** Words used or defined in one tense or form shall include other tenses and derivative forms.
- B.** Words in the singular number shall include the plural number and words in the plural number shall include the singular number.
- C.** The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
- D.** The word "shall" is mandatory.
- E.** The word "may" is permissive.
- F.** The word "person" includes individuals, firms, corporations, associations, trusts, and other similar entities.
- G.** The word "Opelika" means Opelika, Alabama.
- H.** The words "governing body" refer to the City Council of Opelika, Alabama.
- I.** The words "planning commission" refer to the Opelika Planning Commission.
- J.** The word "board" refers to the Zoning Board of Adjustment of the City of Opelika.
- K.** In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration or table, the text shall control.

## SECTION 2.2 DEFINITIONS

When used in this ordinance, the following terms shall have the meanings herein ascribed to them:

**Abutting.** Having a common border with, being separated from such common border by an alley, easement, or street.

**Access.** A means of approach or entry to or exit from property.

**Acre.** Forty three thousand, five hundred sixty (43,560) square feet.

**Agent.** One who acts on behalf of others, such as a lawyer, real estate agent, or surveyor.

**Alley.** A thoroughfare either used or shown on any recorded description that is not more than thirty (30) feet wide and which affords only a secondary means of access to abutting property.

**Alterations/Altered.** Any addition to the height, width, or depth of a building or structure; or any change in the location of any of the exterior walls. A building or structure shall be classified as altered when it is repaired, renovated, remodeled or rebuilt at a cost in excess of fifty percent (50%) of its fair market value prior to commencement of such repairs, renovation, remodeling or rebuilding.

**Apartment.** A dwelling unit contained in a building composed of three (3) or more dwelling units.

**Appeal.** A means for obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this ordinance as expressly authorized by the provisions of this ordinance.

**Attic.** That part of a building that is immediately below, and wholly or partly within, the roof framing.

**Automobile Maintenance Establishment.** A business establishment where minor automobile services are rendered such as replacement of oil and filters, spark plugs, batteries, and distributors, replacement of minor items of equipment such as mufflers, tail pipes, water hose, fan belts, brake fluid, etc., front end alignment, brake repair, tune-ups, etc.; where no part of the premises is used for paint spraying, body or fender repair, or the storage of dismantled or wrecked vehicle parts; and where all repair and service is conducted within a fully enclosed building; except the washing of automobiles and motor vehicles shall be permitted on the exterior of the premises.

**Automobile Repair.** A business includes body work, major engine repair, major repair of drive train and related mechanical parts, and any other use allowed in an automobile maintenance establishment or automobile service station.

**Automobile Service Station.** Buildings and premises where gasoline, oils, greases, batteries, tires and automobile accessories may be supplied and dispensed at retail (or in connection with private operation), where no part of the premises is used for paint spraying, body or fender repair or the storage of dismantled or wrecked vehicle parts; and also where minor services are rendered, such as sale and servicing of spark plugs, batteries and distributors, tire repair and servicing (but no recapping), replacement of minor items of equipment such as mufflers, tail pipes, water hose, fan belts, brake fluid, etc., radiator cleaning and flushing, minor servicing and replacing of carburetors, car washing and waxing.

**Awning.** A shelter attached to and hanging from a vertical surface of a building without any other support from the ground.

**Bedroom.** A room marketed, designed, or otherwise likely to function primarily for sleeping.

**Bed and Breakfast Inn.** A house or portion thereof, where short-term lodging, rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

**Block.** A tract or parcel of land entirely surrounded by highways or streets, other than alleys.

**Boarding House.** An establishment other than a hotel, motel, restaurant, or cafe, where lodging and meals are provided for compensation to three (3) or more persons, lodging is temporary and meals are not served on an individual basis.

**Body Art (Tattoo & Body Piercing).** The practice of physical penetration of the skin for placing of designs, letters, figures, symbols or other marks upon the skin of any person, using ink or other substances that result in the permanent of coloration of the skin by the use of needles or other instruments<sup>1</sup>.

**Brewpub.** A brewpub is any premises upon which a beer is actively or continuously brewed for consumption on the premises where manufactured. A brewpub must be located in a building designated as a historic building, located in a historic district, or located in any economically distressed area designated as suitable by the municipal governing body. The beer brewed by a brewpub cannot be possessed, sold or dispensed except on the premises where it is brewed. A brewpub cannot produce more than 10,000 barrels of beer in one year. The brewpub must contain and operate a restaurant or otherwise provide food for consumption on the premises.<sup>2</sup>

**Buffer.** A unit of land, together with a specified type and amount of planning thereon, and any structures that may be required between land uses to eliminate or minimize conflicts between them.

**Building.** A structure, built, maintained, or intended for use for the shelter or enclosure of persons, animals, plant materials, or property of any kind. The term is inclusive of any part

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<sup>1</sup> Date of Amendment: September 20, 2011 Ordinance No. 116-11

<sup>2</sup> Date of Amendment: October 16, 2013 Ordinance No. 115-13

thereof. Where independent units with separate entrances are divided by party walls, each unit is a building; whether on the same or separate platted lots.

**Building, Accessory.** A building that is (1) subordinate to and serves a principal structure or a principal use, (2) subordinate in area, extent, and purpose to the principal structure or use served, (3) located on the same lot as the principal structure or use served except as otherwise expressly authorized by provision of this ordinance, and (4) customarily incidental to the principal structure or use. Any portion of a principal structure devoted or intended to be devoted to an accessory use is not an accessory structure.

**Building, Principal.** A building in which is conducted, or in which is intended to be conducted, the main or principal use of that lot on which it is located.

**Building Area.** The portion of the lot occupied by the principal building including carports, porches, accessory buildings and other structures.

**Building Front.** That exterior wall of a building that faces a front lot line of the lot.

**Building Frontage.** The developed length of that portion of a building that faces a right-of-way.

**Building Line.** A line on a lot. Generally parallel to a lot line or road right-of-way, located a sufficient distance there from to provide the minimum yards required by this ordinance that delineates the area in which buildings are permitted subject to all applicable provisions of this ordinance.

**Camper.** Any vehicle or structure intended for and/or capable of temporary human habitation for camping or other outdoor recreation purposed, mounted upon 'a vehicular chassis to be driven from place to place without change in structure or design.

**Camping/Travel Trailer.** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet.

**Canopy.** A roof-like structure extending over a pedestrian way or right-of-way as a shelter or shield. This definition shall include the term "awning" and shall apply regardless of the materials used in construction.

**Cemetery.** A place designed for burial of the dead (includes columbarium).<sup>3</sup>

**Child Care Center.** Any home, center, agency, or place, however styled, where children not related to the operator and received for custodial care, apart from their parents whether for compensation, reward or otherwise, during part or all of the day or night and upon any number of successive days or nights.

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<sup>3</sup> Date of Amendment: January 4, 1995      Ordinance No. 101-95      Add Cemetery definition

**Church Building.** A building used exclusively for regular religious worship (including no living quarters) by the congregation or parts thereof, of an organized church.

**City Engineer.** The duly designated engineer for the City of Opelika licensed under the laws of the State of Alabama.

**Columbarium.** A place where the cremated remains of the dead are stored.<sup>4</sup>

**Commercial Parking Lot/Structure.** An open area or a structure used exclusively for the temporary off-street storage of motor vehicles. Such area or structure may be an independent business or may be used in conjunction with any other business or commercial use, whether or not a fee is charged.

**Comprehensive Plan.** A composite of the Opelika Comprehensive Plan, all accompanying maps, charts and explanatory materials, together with all amendments thereto, adopted by the Opelika City Planning Commission and/or the Opelika City Council.

**Condominium.** A multi-unit building and land, certain parts of which are held in common ownership, such as yards, foundations, basements, floors, walls, hallways, stairways, elevators and other related common elements, together with individual ownership in fee of a particular dwelling unit within such building.

**Convenience Store.** An establishment where goods are sold at retail and gasoline may or may not be sold and where automobile repair maintenance or service is not allowed; provided car washes may be an accessory use.

**Crematorium.** An establishment containing a furnace (retort) used to reduce or dispose of a corpse through the use of intense heat or fire.<sup>5</sup>

**Crosswalk.** A public right-of-way four (4) feet or more in width along or between property lines, which provided pedestrian access through the block to adjacent properties.

**Day Care Center.** A Day Care Center shall mean or include any home, center, agency, or place, however styled, where children not related to the operator are received for custodial care, apart from their parents whether for compensation, reward, or otherwise, during the day only.

**Dedication.** The transfer of property interests, including fee-simple interests, less-than-fee interests, and easements, from private to public ownership for a public purpose.

**Density, Gross.** The quotient of the total number of dwelling units divided by the base area of the site.

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<sup>4</sup> Date of Amendment: January 4, 1995      Ordinance No. 101-95

<sup>5</sup> Date of Amendment: January 4, 1995      Ordinance No. 101-95

**Developer.** The legal or beneficial owner of a lot or parcel or any land proposed for development and/or inclusion in a development, including the owner of an option, contract to purchase, or lease.

**Development.** The division of a parcel of land into two (2) or more parcels; the construction, reconstruction conversion, structural alteration, relocation, or enlargement of any buildings; any use or change in use of any buildings or land; any extension of any use of land or any clearing, grading, or other movement of land for which permission may be required pursuant to this ordinance. On any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drillings operations.

**Domiciliary.** A group residence for the elderly where meals are provided and limited care provided by professional staff. Licensed by the State of Alabama as a domiciliary.

**Drainage.** The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water-supply preservation or prevention or alleviation of flooding.

**Drainageway.** Minor watercourses, natural or man-made, that are defined by either soils type or the presence of intermittent or perennial streams.

**Dwelling.** A building or portion therefore which is designed, designated or used for residential purposes.

**Dwelling, Ancillary.** A second dwelling unit that is located in an owner-occupied single-family detached home, or is a separated detached structure on the same lot as an owner-occupied single-family detached home. Such dwelling units may contain their own sleeping, individual kitchen, bathing and toilet facilities. The facilities shall be adequate for independent residential use.<sup>6</sup>

**Dwelling, Attached.** Three (3) or more adjoining dwelling units, each of which is separated from the others by one (1) or more unpierced walls from ground to roof, also referred to as a townhouse.

**Dwelling, Multi-Family.** (See Apartment)

**Dwelling, Semi-Detached.** Two (2) dwelling units, each of which is attached, side to side, each one (1) sharing only one (1) common wall with the other; also referred to as duplex when placed on a single lot or a townhouse when each is on a lot.

**Dwelling, Single-Family Detached.** A dwelling designed for and occupied by not more than one (1) family and having no roof, wall, or floor in common with any other dwelling unit.

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<sup>6</sup> Date Amendment: July 15, 2003 Ordinance No. 113-03

**Dwelling Unit.** A room or group of rooms, providing or intended to provide living quarters for not more than one (1) family, also referred to as a living unit.

**Easement.** Authorization by a property owner of the use by another and for a specified purpose of any designated part of his property.

**Erect.** To build, construct, install, attach, hand, place, inscribe, suspend, affix, paint or repaint.

**Erosion.** The detachment and movement of soil or rock fragments by water, wind, ice and/or gravity.

**Exterior Storage.** Outdoor storage of fuel, raw materials, products, and equipment. In the case of lumberyards and similar activities, exterior storage includes all impervious materials stored outdoors. In the case of truck terminals, exterior storage includes all trucks, truck beds, and truck trailers stored outdoors.

**Family.** Two (2) or more persons residing in a single dwelling unit where all members are related by blood, marriage, adoption, or guardianship in common ancestry, plus two (2) unrelated persons in the Rural District (R-1), Residential Transition District (R-1-A), or the Low Density Residential District (R-2). For the purpose of this definition “common ancestry” means husband and wives, brothers and sisters, parents and children, grandparents and grandchildren, uncles and aunts, nephews and nieces, first cousins, and also include no more than four unrelated persons occupying a single dwelling unit. (This definition of Family does of contradict with the language in the definition of a Group Home).<sup>7</sup>

**Filling.** The depositing on land, whether submerged or not, of sand, gravel, earth, or other materials of any composition whatsoever.

**Flea Market.** An occasional or periodic sales activity held within a buildings, structure, or open area, where groups of sellers offer goods, new and used, for sale to the public, not to include private garage sales.

**Flood or Flooding.** Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;
2. The unusual and rapid accumulation of runoff of surface waters from any source.

**Flooding, area of shallow.** Area of shallow flooding means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**Flood, base.** Base flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

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<sup>7</sup> Date of Amendment: September 1, 2009      Ordinance No. 112-09  
 -Date of Amendment: August 6, 2002      Ordinance No. 122-02

**Flood Hazard Boundary Map (FHBM).** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

**Flood hazard, area of special.** Area of special flood hazard is the land in the flood plain.

**Flood Insurance Rate Map (FIRM).** An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**Flood Insurance Study.** The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

**Floodplain.** May be either riverine or inland depressional areas. Riverine floodplains are those areas contiguous with a lake, stream or streambed whose elevation is greater than the normal flowing water or water pool elevation, but equal to or lower than the projected one hundred (100) year (one (1%) percent annual probability) flood elevation. Inland depressional floodplains are floodplains not associated with a stream system but which are low points to which the surrounding lands drain.

**Floodway.** The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**Floor.** Any floor (including basement) usable for living purposes, which include working, sleeping eating, cooking or recreation, or a combination thereof.

**Floor Area.** The sum of the gross floor area for each of a building's stories, measured from the exterior limits of the faces of the structure. The floor area of a building includes basement floor area and includes attic floor area only if the attic meets the current building standards of the City of Opelika for habitable floor area. It does NOT include cellars and unenclosed porches or any floor space in an accessory building or in the principal building, which is designated for the parking of motor vehicles in order to meet the parking requirements of this ordinance.

**Garage (Carport).** A deck or building, or part thereof, used or intended to be used for the parking and storage of motor vehicles.

**Garden Center.** A place of business, which may include a nursery and/or greenhouses, where retail and wholesale products and produce are grown and/or sold to the retail customer. Such products may include plants, nursery products and stock, fertilizers, potting soil, hardware, power equipment and machinery, hoses, rakes, shovels and other garden and farm tools and utensils.

**Gateway.** Any area which may be designated in the Opelika Comprehensive Plan or determined by the City Council as a primary City entry/exit point or significant roadway corridor. See Section 7.6 for definition of Gateway Corridor Overlay District.<sup>8</sup>

**Group Development.** Two (2) or more uses occupying the same parcel or where two (2) or more use function as a single complex by virtue of having common access, parking, traffic, or design orientation. A shopping center, office, industrial park, or malls are all group developments. All businesses located in such a group development, even if they occupy separate buildings or are developed on out parcel lots; will be considered part of the group development.<sup>9</sup>

**Group Home.** A facility which has as its primary use the provision of care for its residents, in a home type environment, and where residency is required to receive such care. The maximum occupancy of a facility is limited to seventy (70) square feet of bedroom gross floor area per resident. This restriction prevents overcrowding of group homes in relation to living area or the number and types of rooms. For the purpose of this definition, bedroom is defined as a room designed or designated for sleeping and not bathrooms, hallways, closets, utility or storage rooms or areas or rooms which primary use is for eating, cooking, or general congregating.

Group Homes shall be an Allowed use in the I-1 (Institutional) District and a Conditional use in R-1, R-2, R-3, R-4, and R-4M. R-5, R-5M, C-2, C-3, GC-1, and GC-2 zoning districts. In single family zoning districts (R-1, R-2, R-3) the maximum number of residents shall be six (6) - not including the care providing staff. In single family zoning districts, the architectural design of new group homes, additions, or renovations to existing single-family homes for group home use shall be compatible with the residential character of the single-family neighborhood. The objective here is to require that group homes retain a residential character in order to preserve and protect the existing single-family neighborhood. A group home proposal must include architectural drawings and site plan layout that identifies with the neighborhood. The Planning Commission shall review the floor plan, and front, side, and rear elevations for approval. The Planning Commission may require changes in exterior materials, building square footage or height, building projections into the vertical and horizontal plane, site plan layout, or other changes necessary to maintain the residential character of a single-family neighborhood. In addition, the following conditions shall be met for all group home requests:

1. Statement from the care providing organization stating, that all applicable and/or required certifications and/or licenses have been obtained.
2. Statement from the care providing organization stating the name of the responsible person or party for the facility and the method for contacting such person or party.
3. Statement from the care providing organization that approval under this section shall not be transferable without prior approval from the Opelika Planning Commission.
4. Statement certifying that the proposed group home is at least one thousand (1,000) feet from any other group home as measured between lot lines.
5. Copies of each document required herein are to be provided to the Planning Department and are to be kept in the appropriate case file.

Group Homes are Not Allowed in the C-1, M-1, and M-2 zones.<sup>10</sup>

<sup>8</sup> Date of Amendment: September 16, 1997 Ordinance No. 124-97

Date of Amendment: December 6, 1995 Ordinance No. 138-95

<sup>9</sup> Date of Amendment: December 6, 1995 Ordinance No. 136-95

<sup>10</sup> Date of Amendment: August 6, 2002 Ordinance No. 122-02

**Grade Level.** The finished elevation of a lot.

**Height of Structure.** The vertical distance measured from the lowest ground elevation at the exterior face of a structure to the highest point on such structure plus the vertical distance measured from the highest ground elevation at the exterior face of such structure to the highest point on such structure, divided by two (2).

**Highest Adjacent Elevation.** Highest adjacent elevation means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**Home Occupation.** A home occupation is a gainful occupation or profession conducted by members of a family residing on the premises, and operated entirely within the principal dwelling unit, or off-site of the premises, and in such a manner that there will be no external manifestation of the operation of the business outside the dwelling unit. See section 8.14 for regulations on Home Occupations.<sup>11</sup>

**Hotel/Motel.** A building or group of buildings used or intended to be used for the daily lodging of more than ten (10) persons for compensation.

**Impervious Surface.** A surface that does not absorb or allow for the percolation of water, such surfaces include all buildings, parking areas, driveways, roads, sidewalks, any areas of concrete, asphalt, lumber stacks or similar uses.

**Impervious Surface Area.** The total amount of impervious surface, measured horizontally.

**Junkyard.** Any land or structure used for a salvaging operation, including but not limited to the storage and sale of waste paper, rags, scrap metal, and discarded materials and the collection, dismantlement, storage, and salvage of two (2) or more unlicensed, inoperative vehicles.

**Kennel.** A lot, establishment, or facility where four (4) or more animals are boarded or kept for any commercial purpose whatsoever, with exception of veterinary clinics, animal hospitals, and pet grooming establishments.

**Lakes and Ponds.** Natural or artificial bodies of water that retain water year round. The shoreline of such bodies of water shall be measured from the maximum condition rather than from the permanent pool in the event of any difference.

**Licensee.** Any person licensed by the Opelika City Council to sell alcoholic beverages under the terms of this ordinance.

**Liquor.** Any alcoholic, spirituous, vinous, fermented or other alcoholic beverage or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented, or

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<sup>11</sup> Date of Amendment: July 15, 2003      Ordinance No. 113-03

otherwise alcoholic and all drinks are drinkable liquids, preparation or mixtures intended for beverage purposes, which contain one-half of one percent or more of alcohol by volume, except beer and table wine.<sup>12</sup>

**Lot.** A parcel of land undivided by any street or private road and occupied by, or designated to be developed for, one (1) building or principal use and the accessory buildings or uses customarily incidental to such building, use or development, including such open spaces and yards as designed and arranged or required by this ordinance for such building, use, or development.

**Lot Area.** The horizontal area contained within the boundary lines of a lot.

**Lot, Corner.** A lot abutting two (2) or more streets at their intersection.

**Lot Depth.** The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

**Lot, Double Frontage.** A lot, other than a corner lot, which has frontage on more than one street.

**Lot Frontage.** Lot width measured at the street lot line(s), being the length of the property line of any one (1) premise along each legally accessible public right-of-way it borders.

**Lot Line.** A line bounding a lot that divides one (1) lot from another or from a street or any other public or private space.

**Lot Line, Front.** That lot line along which the lot takes primary access to a street.

**Lot Line, Rear.** That lot line which is parallel to and most distant from the front lot line of a lot or, in the case of an irregular lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance from, the front lot line.

**Lot Line, Side.** Any lot line other than a front or rear lot line.

**Lot of Record.** Any validly recorded lot that, at the time of its recordation, complied with all applicable laws, ordinances and regulations.

**Lot Width.** The mean horizontal distance between the side lot lines measured parallel to the front and rear lot lines at the building line. In the case of only one (1) side lot line, lot width shall be measured between such lot line and the opposite lot line or future right-of-way line.

**Lounge.** Any place or premise in which liquor or wine is offered for sale or consumption within the building in which the establishment is located and which meets the minimum requirements of the Alabama Alcoholic Beverage and Control Board and Chapter 3, Alcoholic Beverages of the Opelika City Code.

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<sup>12</sup> Date of Amendment: April 15, 2014      Ordinance No. 110-14

**Maintenance Guarantee.** A guarantee of facilities or work to insure the correction of any failures of any improvements required pursuant to this ordinance, or to maintain same.

**Malt or Brewed Beverages.** Any beer, lager, ale, porter, stout or similar fermented malt liquor containing one-half of one percent (0.5%) or more alcohol by volume and not in excess of four percent (4%) alcohol by weight or five percent (5%) alcohol by volume, by whatever name same may be called.

**Mausoleum.** A structure for the entombment of the dead.<sup>13</sup>

**Mean Sea Level.** Mean Sea Level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (. ~N-GVD).

**Micro-Brewery.** An establishment for the manufacture, blending, fermentation, processing and packaging of beer which is actively and continuously brewed for consumption on the premises where manufactured with a floor area of 10,000 feet or less which takes place wholly inside a building and produces no more than 10,000 barrels of beer in one year. A tasting room is permitted within the micro-brewery. All activities must occur within the building and outdoor storage is prohibited. The micro-brewery must be properly licensed by any federal or state regulatory agency with jurisdiction over the facility, including the Alabama Alcoholic Beverage Control Board. The Manufacturing, processing and packaging of wine and other alcoholic beverages except beer, by the micro-brewery is prohibited.<sup>14</sup>

**Micro-Distillery.** An establishment for the manufacture, blending, fermentation, processing and packaging of alcoholic beverages, except beer and wine, with a floor area of 10,000 square feet or less which takes place wholly inside a building and produces no more than 75,000 proof gallons of alcoholic beverages annually. The Planning Commission may consider a conditional use permit via a separate application to increase by no more than 20% for a maximum of 90,000 proof gallons. A tasting room is permitted within a micro-distillery. The micro-distillery must be properly licensed by any state or federal regulatory agency with jurisdiction over the facility, including The Alabama Beverage Control Board. All activities must occur within the building and outdoor storage is prohibited. The manufacture, processing and packing of beer and wine by the micro-distillery is prohibited.<sup>15</sup>

**Minimum Floor Elevation.** The lowest elevation permissible for the construction, erection, or other placement of any floor, including a basement floor.

**Mini-Warehouse.** A building or group of buildings in a compound that contains varying sizes of individual lockers or stalls for the dead storage of a customer's goods or wares and where no sales, service or repair facilities are permitted.

<sup>13</sup> Date of Amendment: January 4, 1995

Ordinance No. 101-95

Add Mausoleum definition

<sup>14</sup> Date of Amendment February 19, 2014

Ordinance No. 102-14

Add MICRO-BREWERY definition

<sup>15</sup> Date of Amendment: October 16, 2013

Ordinance No. 115-13

Add MICRO-DISTILLERY definition

**Mobile Home or Manufactured Home (Trailer).** A transportable, single-family dwelling, intended for permanent occupancy contained in one (1) unit, or in two (2) or more units designed to be joined into one (1) integral unit capable of again being separated for towing, which arrives at a site complete and ready for occupancy except for minor or incidental assembly, which is constructed so that it may be used with or without a permanent foundation.

**Mobile Home Park.** A parcel of land under single management, which has been planned and improved for the rental or lease of lots and the provision of services for mobile homes and/or non-adjacent use.

**Modular Home.** A manufactured building built and inspected in accordance with a national building code and in compliance with the provision of Act #81-706, Alabama Law.

**Monument.** A natural or man-made object or feature serving, to indicate a limit or to mark a boundary.

**Motor Home.** A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van, that is an integral part of the completed vehicle.<sup>16</sup>

**National Geodetic Vertical Datum (NGVD).** National Geodetic Vertical Datum as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

**New Construction.** New construction means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

**Non-Conforming Structure, Illegal.** Any structure that was erected or altered outside the provisions of a prior zoning ordinance.

**Non-Conforming Structure, Legal.** Any structure which was lawfully erected or altered in conformity with all applicable municipal ordinances, or through variance granted by the Board of Adjustment, but which structure does not comply with all the provisions this ordinance establishes, for structures in the district in which the same is located.

**Non-Conforming Use.** A use of any structure or land which though originality lawful does not conform to the provisions of this ordinance or any subsequent amendments thereto for the district in which it is located.

**Non-Conforming Use, Illegal.** Any use which, on the effective date of this ordinance was operating outside the provisions of a prior zoning ordinance, such as a dine and dance establishment operating in a residential zone in defiance of zoning restrictions.

**Non-Conforming Use, Legal.** A use which, on the effective date of this ordinance was lawfully operated in accordance with the provisions of any prior zoning ordinance, or through variance

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<sup>16</sup> Date of Amendment: September 1, 1992 Ordinance No. 131-92

granted by the Board of Adjustment, but which use is not a permitted use as established by this ordinance in the district in which the use is located.

**Nursery.** An enterprise that conducts the wholesale and/or retail sale of plants grown on the site, as well as accessory items (but not power equipment such as gas or electric lawn mowers and farm implements) directly related to their care and maintenance, such as clay pots, potting soil, fertilizers, insecticides, hanging baskets, rakes, hoes and shovels.

**Office.** Space or rooms used for professional, administrative, clerical and similar uses.

**On-Site.** Located on the lot in question, except in the context of on-site detention of storm water, when the term means within the boundaries of the development site as a whole.

**Owner.** The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

**Owner's Engineer.** The engineer or land surveyor registered and in good standing with the State Board of Registration of Alabama who is the agent in this professional capacity of the owner of land which is proposed to be subdivided or which is in the process of being subdivided.

**Package Store.** A place or premise for the principal purpose of selling at retail, alcoholic beverages by the keg, bottle, can, pack or case, for off-premise consumption.

**Package Liquor Store.** An establishment licensed by the City where liquor is authorized to be sold in unopened containers for off premise consumption. The definition of package liquor store also includes any licensed club or lounge licensed by the Alabama Alcoholic Beverage Control Board to sell and disburse liquor in unopened containers for off premise consumption. The definition shall also include liquor stores operated by the Alabama Alcoholic Beverage Control Board where alcoholic beverages are authorized to be sold in unopened containers. The definition does not include a business selling only beer and/or wine for off premise consumption.<sup>1718</sup>

**Parcel.** The area within the boundary lines of a development.

**Parking Space.** The space necessary to park an automobile.

**Performance Guarantee or Bond.** A financial guarantee to insure that all improvements, facilities or work required by this ordinance will be completed in compliance with the ordinance, regulations and the approved plans and specifications of a development.

**Pet Grooming Establishments.** Any facility in a totally enclosed building where animals are groomed but where overnight boarding is not permitted.

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<sup>17</sup> Date of Amendment: July 2, 2010      Ordinance No. 112-10

<sup>18</sup> Date of Amendment: April 16, 2014      Ordinance No. 110-14

**Plat, Final.** A plat of a tract of land that meets the requirements of the subdivision regulations and is in form for recording, in the office of the Probate Judge of Lee County, Alabama.

**Plat, Preliminary.** A tentative plan of the complete proposed subdivision submitted to the Planning Commission for its consideration.

**Private Club.** A corporation or association organized or formed in good faith by authority of law and which must have at least one hundred fifty (150) paid-up members. It must be the owner, lessee or occupant of an establishment operated solely for the objects of a national, social, patriotic, political or athletic nature or the like, but not for pecuniary gain and the property as well as the advantages of which belong to all the members, and which maintains an establishment provided with special space and accommodations where, in consideration of payment, food with or without lodging is habitually served. The private club shall hold regular meetings, continue its business through officers regularly elected, admit members by written application, investigation, ballot, and charge and collect dues from elected members.

**Public Improvement.** Any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide for public's needs, such as: vehicular and pedestrian circulation systems, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility and energy services.

**Public Works Manual.** The document that contains all construction and improvement specifications and standards, including a drainage manual for control and disposal of all water. This document has been adopted by the City of Opelika and is administered by the City Engineer.

**Recreational Vehicle.** A vehicle, or a unit that is mounted on or drawn by another vehicle, primarily designed for temporary living. Recreational vehicles include travel trailers, camping trailers, truck campers, and motor homes.

**Recreational Vehicle Park.** A lot on which campsites are established for occupancy by recreational vehicles of the public as temporary living quarters for purposes of recreation or vacation.

**Recreational Vehicle Site.** A plot of ground within a recreational vehicle park set aside for the accommodation of a recreational vehicle on a temporary basis. It shall be permitted to be used either as a recreational vehicle site or as a camping unit site.<sup>19</sup>

**Restaurant.** A reputable place licensed as a restaurant, operated by a responsible person of good reputation, in which a diversified selection of foods, refreshments, and/or alcoholic beverages are offered for sale for consumption within the building in which the establishment is located, and which meets the following additional requirements:

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<sup>19</sup> Date of Amendment: September 1, 1992 Ordinance No. 131-92

A dining space of at least one thousand (1,000) square feet on one (1) floor in one (1) room, said dining room to be equipped with tables and chairs accommodating at least fifty (50) persons at one time. A kitchen separate and apart from the dining area, but adjoining the same in which food is prepared for consumption by the public and in which food or meals served in said dining room are prepared. At least one (1) meal per day shall be served at least six (6) days per week with the exception of holidays, vacations and periods for redecorating. Such place shall meet the minimum requirements for an Alabama Alcoholic Beverage Control Board on Premise License. The serving of food or meals shall constitute the principal business of such establishment, with the serving of liquor, malt or brewed beverages, wines and other alcoholic beverages being only an incidental part of business. During any ninety (90) day period, the gross receipts from the serving of meals and food shall constitute more than fifty percent (50%) of the gross receipts of the business. The owner or owners of such establishment shall maintain separate cash register receipts, one for food and one for liquor, malt or brewed beverages, wines or other alcoholic beverages. In addition, the owner or owners of such establishment shall maintain all invoices for the purchase of food and liquor and shall preserve such records for not less than two (2) years. All such records shall be open for inspection and checking during such regular business hours as the finance director of the city or his duly authorized representative may request.

**Restaurant, Fast Food.** An establishment whose principal business is the sale of food and beverages in a ready-to-consume state for consumption 1) within the restaurant building, 2) within a motor vehicle parked on the premises, or 3) off the premises as a carry-out order, and whose principal method of operation includes the following characteristics; food and beverages are usually served in edible containers or in paper, plastic or other disposable containers.

**Right-of-Way Width.** The right-of-way of shortest distance between the two (2) property lines of a street.

**Road-Side Stand.** A structure for display and sale of products with no space for customers within the structure itself.

**Sedimentation.** The deposition of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a result of erosion.

**Self-Service Laundry.** A structure containing, washing machines and usually drying machines, which are operated by the customer. It may or may not have an attendant.

**Semi-Public Buildings.** Structures for the use of a group, the membership of which is open to the public, such as churches, Y.M.C.A. and Y.W.C.A. facilities, private schools, hospitals and nursing homes, colleges and health clubs, country clubs, tennis clubs, etc., but not including profit-making organizations.

**Service Building.** A structure or portion thereof that is used to house sanitary facilities, such as water closets or lavatories. It may include other facilities for the convenience of the owner or the occupants of the Recreational Vehicle Park or campground, such as food, L.P.G. service tank, etc.<sup>20</sup>

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<sup>20</sup> Date of Amendment: September 1, 1992 Ordinance No. 131-92

**Shopping, Center.** A group of commercial establishments planned, developed and managed as a unit with off-street parking provided on the property.

**Sidewalk.** A walkway constructed for use by pedestrians.

**Stable, Commercial.** A building or land where horses are kept for remuneration, hire, sale, boarding, riding or show.

**Stable, Private.** Any building, incidental to an existing residential, principal use that shelters horses for the exclusive use of the occupants of the premises.

**Start of construction.** Start of construction means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation, including the relocation of a structure. Permanent construction does not include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not a part of the main structure. For a structure (other than a mobile home) without a basement or poured foundations, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction," means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivision, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads and installation of utilities) is completed.

**Story.** That portion of a building, included between the surface of any floor and the surface of the floor next above or, if there be no floor next above it, then the space between such floor and the ceiling next above it.

**Street.** Shall mean a way for vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated. Streets are classified as follows:

**Street, Arterial.** Shall mean a road or street that accommodates a high volume of traffic. Access may be limited and signalization may be used to maximize traffic flow. Highest order of street classification. Receives collector streets.

**Street, Cul-De-Sac.** A short street designed to have one end permanently closed. The closed end terminated by vehicle turnaround.

**Street, Dead-End.** A Street having no outlet at one end.

**Street, Highway.** Shall mean a road or street that forms a part of the existing or projected Federal Aid Highway System or the State or County Highway System.

**Street, Local.** A Street, the principal purpose of which is to provide vehicular access from properties abutting it to collector streets.

**Street, Major Collector.** A highway or street of considerable continuity which is primarily a traffic artery for interconnection among large areas designed to carry heavy volumes of traffic.

**Street, Minor Collector.** A street designed to carry medium volumes of vehicular traffic, provide access to the major street system, and collect the vehicular traffic from the intersecting streets.

**Street, Parallel Access.** A (service) street which parallels and is immediately adjacent to a major street or highway, and which provides access to abutting property and provides control of access to the major street.

**Street, Parkway.** A road or street that forms a part of an existing or proposed Parkway System. A parkway generally includes landscape provisions as an integral part of the design.

**Street Centerline.** That line surveyed and monumented or accepted by the City of Opelika as the centerline of the street; or in the event no centerline has been so determined, that line running midway between and generally parallel to the direction of the outside right-of-way lines of the street.

**Structural Alteration.** Any change in the supporting members of a building, such as the bearing walls, beams, or girders, or any change in the dimension or configuration of the roof or exterior wall. See also Alteration/Altered.

**Structure.** Anything constructed or erected that requires location on the ground or attached to something having a location on the ground, to include, among other things, buildings, signs, towers, monuments, and statues; but not to include telephone and other utilities poles, overhead wires, retaining walls and terrace walls, wire fences, and any other thing less than three (3) feet in height.

*There are two (2) types of structures: **permanent and temporary.***

- **Permanent structures** shall be used for non-temporary uses (see **Use, Temporary**). Permanent structures shall comply with a recognized type of construction per the Building Code as adopted by the City of Opelika and shall meet all applicable codes and requirements.
- **A temporary structure** is a structure without any foundation or footings or a structure that does not comply with recognized type of construction per the Building Codes as adopted by the City of Opelika which is attached to the ground or other structure in some non-permanent fashion. Temporary structures shall require a permit from the Planning Department and shall be removed from the site when the designated time period, activity, or use for which the temporary structure was established has ceased. **Temporary structures** may only be

permitted for the temporary use (see **Use, Temporary**) provided that the temporary structure and temporary use meet all applicable codes and requirements.<sup>21</sup>

**Structure, Accessory.** A structure that is 1) subordinate to and serves a principal structure, 2) subordinate in area, extent and purpose to the principal structure, and 3) located on the same lot as the principal structure except as expressly authorized by this ordinance (See section 8.11 for regulations concerning accessory structures and Section 8.7.1 for regulations on ancillary dwelling units).<sup>22</sup>

**Subdivision.** Any division or re-division of land into two (2) or more parts by means of mapping, platting, conveyance, change or rearrangement of boundaries. All subdivision is also developments.

**Subdivision Identification Marker.** A structure marking an entrance to a subdivision, office park or industrial park, carrying no advertising other than the name of the owner or developer of the subdivision, office park or industrial park and the name of the development.

**Thoroughfare Plan, Major.** An engineered or designed plan or program of arterial, collector and minor streets and roads contained in the Opelika Comprehensive Plan.

**Travel Trailer.** A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight as not to require special highway movement permits when towed by a motorized vehicle and of gross trailer area less than three hundred and twenty (320) square feet.<sup>23</sup>

**Truck Camper.** A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides designed to be loaded onto and unloaded from the bed of a pickup truck.<sup>24</sup>

**Truck Stop.** Any building, premises, or land in which or upon which a business, services, or industry involving the maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products strictly into motor vehicles and the sale of accessories of equipment for trucks and vehicles. A truck stop also may include overnight accommodations and restaurant facilities primarily for the use of truck crews.<sup>25</sup>

**Use.** The purpose of activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

**Use, Accessory.** A use that is 1) subordinate to and serves a principal structure or use, 2) subordinate in area, extent and purpose to the principal structure or use, 3) located on the same

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<sup>21</sup>Date of Amendment: December 2, 1997      Ordinance No. 128-97

<sup>22</sup>Date of Amendment: July 15, 2003      Ordinance No. 113-03

<sup>23</sup>Date of Amendment: September 1, 1992      Ordinance No. 131-92

<sup>24</sup>Date of Amendment: September 1, 1992      Ordinance No. 131-92

<sup>25</sup>Date of Amendment: June 19, 2007      Ordinance No. 118-07

lot as the principal structure or use except as expressly authorized by this ordinance, and 4) customarily incidental to the principal structure or use.

**Use, Conditional.** A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a district subject to approval by the Planning Commission, and subject to special requirements, different from those usual requirements for the district in which it may be located.

**Use, Principal.** The specific primary use for which land or any building thereon is use.

**Use, Temporary.** Any use established, for a fixed period of time, without construction or alteration of a permanent structure, with the intent to discontinue such use upon expiration of such time.<sup>26</sup>

**Variance.** Permission to depart from the literal requirements of this ordinance granted in accord with due process and pursuant to a showing of just cause as established in this ordinance.

**Veterinary Clinics.** A facility for the treatment and boarding of small domestic animals which is staffed by a least one (1) doctor of veterinary medicine.

**Veterinary Clinics, Out-patient.** A satellite facility of an existing vet clinic located in Lee County for the treatment of small domestic animals which is staffed by at least one (1) doctor of veterinary medicine and which does not have facilities or provide for the overnight stay of animals.

**Wetland.** An area of one-quarter (0.25) acre or more where standing water is retained for a portion of the year and unique vegetation has adapted to the area; to include all areas designated as “marsh” in the Hydrologic Investigation Atlas of the U.S. Geological Survey and/or the Soil Survey of Lee County, Alabama of the Soil Conservation Service, U.S. Department of Agriculture.

**Wine.** All beverages made from the fermentation of fruits, berries, or grapes, with or without added spirits, and containing not more than twenty four (24) percent alcohol by volume.

**Yard.** The open space between a lot line and building line.

**Yard, Front.** A yard extending the full length of the front of a lot between the front lot line and the front building line; except in the case of a corner lot, where the yard along all established or future street right-of-ways shall be termed and treated as a front yard.

**Yard, Rear.** A yard extending the full width of the lot in the area between the rear lot line and the rear building line.

**Yard, Side.** A yard extending along a side lot line, from the front yard to the rear yard, between the side lot line and the side building line.

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<sup>26</sup> Date of Amendment: December 2, 1997 Ordinance No. 128-97

**Zero Lot Line.** The location of a building on a lot in such a manner that one (1) or more of the building's sides rest directly on a side lot line.<sup>27</sup>

**Zoning Administrator.** An official of the City of Opelika designated by the Mayor as the enforcement officer of this ordinance. Also referred to as administrative official.

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<sup>27</sup>Date of Amendment: June 19, 2007      Ordinance No. 118-07

## **SECTION III**

### **ENFORCEMENT**

The provisions of this ordinance shall be administered and enforced by the Zoning Administrator. This official shall have the right to enter upon any premises at a reasonable time prior to the issuance of certificate of occupancy for the purpose of making inspections of buildings or premises necessary in carrying out his duties in the enforcement of this ordinance. It is the intent of this ordinance that several departments have responsibility to review and approve plans; however, the Building Official is responsible for compliance with all plans.

#### **SECTION 3.1 BUILDING PERMIT REQUIRED**

It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, or to store building materials or erect temporary field offices, or temporary structures<sup>1</sup> or to commence the moving, demolition, alteration, or repair (except painting or wallpapering) of any structure, including accessory structures, until the Building Official of the municipality has issued for such work a building permit including a statement that the plans, specifications and intended use of such structure in all respects conform with the provisions of this ordinance. Application for a building permit shall be made to the Building Official of the municipality on forms provided for that purpose. All building plans shall also be approved by the Zoning Administrator if that person is not the Building Official.<sup>2</sup>

#### **SECTION 3.2 APPROVAL OF PLANS AND ISSUANCE OF BUILDING PERMIT**

It shall be unlawful for the Building Official to approve any plans or issue a building permit for any excavation or construction until he has submitted such plans in detail to the Zoning Administrator and he had found them in conformity with this ordinance. To this end, the Building Official shall require that every application for a building permit for excavation, construction, use of land, moving or alteration be accompanied by a map or plat drawn to scale and showing the following in sufficient detail to enable the Zoning Administrator to ascertain whether the proposed excavation, construction, use of land, moving or alteration is in conformance with this ordinance:

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<sup>1</sup> Exemptions. Temporary uses located in Temporary Structures that do not exceed 3 days in a 12-month period AND the temporary structure is 800 square feet or less in size will not require a building permit nor a zoning certificate. If the event is to be held at a recognized celebration site for special events, observances, days and the like, the 12-month time separation requirements between events will be waived. Celebration sites include all places of worship, county clubs, hotels, conference centers, bed and breakfast facilities, recognized places of receptions, public parks, etc.

<sup>2</sup> Date of Amendment: December 2, 1997 Ordinance No. 128-97

- A. The actual shape, proportion and dimensions of the lot to be built upon.
- B. The shape, size, and location of all buildings or other structures to be erected, altered or moved and of any buildings or other structures already on the lot; including the distance of all structures from property lines.
- C. The existing and intended use of all such buildings or other structures.
- D. The setback and sidelines of buildings on adjoining lots and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.
- E. When site plan review is required, further detailed information shall be provided as required in Section 8.16 of this ordinance.

If the proposed excavation, construction, moving, demolition, or alteration as set forth in the application, are in conformity with the provisions of this ordinance as determined by the Zoning Administrator, and other city codes, the Building Official of the municipality shall issue a building permit accordingly. If an application for a building permit is not approved, the Building Official of the municipality shall state in writing on the application the cause for such disapproval. Issuance of a building permit shall, in no case, be construed as waiving any provision of this ordinance.

### **SECTION 3.3 CERTIFICATE OF OCCUPANCY REQUIRED**

No land or building or other structure or part thereof hereafter erected, moved or altered in its use shall be used until the Building Official of the municipality shall have issued a Certificate of Occupancy stating that such land or structure or part thereof is found to be in conformity with the provisions of this ordinance. Within three (3) days after the owner or his agent has notified the Building Official of the municipality that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Building Official of the municipality to make a final inspection thereof, and to issue a certificate of occupancy if the building or premises or part thereof is found to conform with the provisions of this ordinance, or if such certificate is refused, to state the refusal in writing with the cause.

### **SECTION 3.4 PENALTIES**

Any person violating any provision of this ordinance shall be fined upon conviction not more than five hundred dollars (\$500.00) and shall be imprisoned in the city jail for not more than six (6) months or by both such fine and imprisonment and also costs of court for each offense. Each day such violation continues shall constitute a separate offense.

### **SECTION 3.5 REMEDIES**

In case any building or other structure is erected, demolished, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this ordinance, the Building Official of the municipality or any other appropriate authority or any adjacent or neighboring property owner who would be affected by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, demolition, construction, reconstruction, alteration, repair, conversion, maintenance or use, to correct or abate such violations or to prevent occupancy of such building, structures, or land.

**SECTION IV**  
**ZONING BOARD OF ADJUSTMENT, APPOINTMENT, DUTIES,**  
**AND RESPONSIBILITIES**

A Board of Zoning, Adjustment is hereby established. The appointment, procedure, powers, and action of said Board of Zoning, Adjustment shall be governed and controlled by Section 11-52-80, Code of Alabama, 1975, as the same may be amended.

**SECTION 4.1 PROCEDURES: SPECIAL EXCEPTIONS, APPEALS, HEARINGS, RECORDS**

- A. Applications for special exceptions, interpretations and variances may be made by any property owner, agent, tenant, governmental official, department, board or bureau. Such application shall be made in accordance with rules adopted by the Board. The application and accompanying maps, plans, or other information shall be transmitted promptly to the City Planner who shall place the matter on the agenda, advertise a public hearing thereon, which shall be held not less than five (5) days after such advertising, and given written notice of such hearing to the parties in interest.
  
- B. An appeal to the Board may be taken by any person aggrieved by an adverse decision of the Zoning Administrator, or any office, department, board or bureau of the town affected by any decision of the Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Administrator and with the Board a notice of appeal specifying the grounds thereof. The City Planner shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the Administrator certifies to the Board that by reason of facts stated in the certificate a stay would in his opinion, cause imminent peril to life or property, in which case proceedings should not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and on notice to the zoning Administrator and on due cause shown.
  
- C. The Board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within sixty (60) days following the hearing. At the hearing, any party may appear in person or by agent or by attorney. Public notice of the hearing shall consist of publication of such notice, at least five (5) days prior to the hearing, in a newspaper of general circulation in the town, specifying the time, place and nature of the hearing. In addition, the Board shall cause the date, time, place and nature of the hearing to be posted conspicuously on the property in accordance with the rules of the Board. In exercising its powers the Board may reverse or affirm wholly or partly, or may modify, the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator.

- D. The Board shall keep minutes of its proceeding and other official actions, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be filed in the office of the Board and shall be a public record. The Chairman of the Board, or in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses.
- E. The Board may adopt any necessary rules of procedure that are not in conflict with other City ordinances or applicable State codes.

## **SECTION 4.2 POWERS**

The Zoning Board of Adjustment shall have the following powers: To hear and decide appeals where *it* is alleged that there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the administration or enforcement of this chapter, to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, the enforcement or the provisions of this chapter would result in unwarranted hardship and injustice, but which will most nearly accomplish the purpose and intent of this chapter, to hear and decide on applications for interpretation of the Zoning District Map where there is any uncertainty as to the location of a district boundary.

### **A. Variances. The Board shall have the power to grant the following variances:**

1. A variation in the yard requirements in any district so as to relieve practical difficulties or particular hardships in cases when and where, by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the enactment of such regulation or restriction, or by reason of exceptional topographical conditions or other extraordinary situation or condition of such piece of property, or the use or development of property immediately adjacent thereto, the strict application of such regulation or restriction would result in peculiar and exceptional practical difficulties to or exceptional hardship upon the owner of such property. Such grant of variance shall comply as nearly as possible in every respect with the spirit, intent and purpose of the zoning ordinance, it being the purpose of this provision to authorize the granting of a variation only for reasons of demonstrable and exceptional hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit or caprice.
2. No such variance shall be authorized by the Board unless it finds: That the strict application of this ordinance would produce unwarranted hardship; or practical difficulty that such hardship or difficulty is not shared generally by other properties in the same zoning district and the same vicinity; that the authorization of such variances will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance, however, that no variance may be granted for a use of land or building or structure that is prohibited in a given district.

3. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of general regulation to be adopted as an amendment to this chapter.
4. Whenever an application for a variance cancels or withdraws *his* application after an advertisement for a public hearing has been published, any rescheduling for a public hearing on said application or reapplication for the same variance shall be more than four (4) months after the original public hearing was scheduled.
5. The procedure for amendment of a special exception or variance already approved, or a request for a change of conditions attached to an approval, shall be the same as for a new application, except that where the Zoning Administrator determines the change to be minor relative to the original approval, he may transmit the same to the Board with the original record without requiring that a new application be filed.

### **B. Interpretation of District Boundaries.**

Application for interpretation of district boundaries may be made by any property owner, agent, tenant, government official, department, board or bureau to the City Planner on the forms provided therefore and in accordance with rules adopted by the Board. The application and accompanying, maps, plans or other information shall be transmitted promptly to the City Planner who shall place the matter on the docket, and the City Planner shall transmit a copy of the application to the Planning Commission, which may send a recommendation to the Board or appear as a party at the hearing.

### **SECTION 4.3 DECISIONS OF THE BOARD OF ADJUSTMENT**

In exercising the above-mentioned powers the Board may, in conformity with the provisions of this Ordinance, reverse or affirm wholly or partly or may modify the order, requirement decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to affect any variation in such ordinance.

### **SECTION 4.4 APPEALS**

Appeal to the Board of Adjustment and to the Courts. It is the intent of the governing authority of the City that all questions of interpretation and enforcement of this ordinance shall be presented first to the Zoning Administrator. Other than those applications and matters upon which the terms and provisions of this ordinance may require action and decision by the said Board of Adjustment, only the appeals taken in the manner and form as provided in this ordinance from the actions and decisions of the Zoning Administrator will be considered and acted upon by the said Board of Zoning Adjustment. However, any interested party who is aggrieved by any action or decision of the said Board of Adjustment may take an appeal there from to a court of law, as provided for in the State Law.

## SECTION V

### AMENDMENTS

The Opelika City Council may, from time to time, amend, supplement, or change by ordinance, the boundaries of the zoning districts or the regulations herein established. An amendment, supplement, or change may be initiated only by the City Council or on recommendation by the Planning Commission, or on petition, signed by a majority of the property owners owning a majority of the property to be amended or changed.

In no instance shall a property owner or owners initiate action for an amendment affecting the same parcel of property, or any part thereof, more often than once every twelve (12) months.

If a property is rezoned, and a business license is requested or site plans for development are submitted for the rezoned property, the property owner(s) must ensure that the use, structure, and proposed development shall be in compliance with the regulations (i.e. parking, landscaping requirements, etc.) governing the district within which said use/structure/proposed development is located;<sup>1</sup>

#### SECTION 5.1 AMENDMENT PROCEDURE

- A. Any amendments, change or supplement to the zoning ordinance text or map must first be submitted through the office of the City Planner, to the Opelika Planning Commission for review and recommendation.
- B. A signed and completed application form and all required materials shall be filed with the City Planner no less than twenty-one (21)<sup>2</sup> days prior to the meeting to which application is made. The City Planner shall review the application as to proper form, and then shall transmit it to the Planning Commission for review.
- C. The Planning Commission upon its own initiative may hold public hearings, public notice of which shall be given, for the consideration of any proposed amendment to the provisions of this article or to the Zoning Map of Opelika, and report its recommendations to the City Council. The provisions of Section 11-52-78, Code of Alabama, 1975, as the same may be amended, shall apply to all changes and amendments.
- D. In a case where an application for rezoning of property is proposed and scheduled for hearing the city engineer shall erect on the property a sign, approved by the City Planner, clearly visible and legible from the public streets. The sign shall indicate the nature of the proposed zoning change and shall include notice of the time and place of the Public Hearing at which it is to be considered. The sign shall be erected not less than seven (7) days before the Public Hearing and shall be removed within five (5) days after the Hearing,

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<sup>1</sup>Date of Amendment: August 20, 1996

Ordinance No. 121-96

<sup>2</sup>Date of Amendment: June 8, 2005

Ordinance No. 111-05

## **SECTION 5.2 SUBMITTAL OF PLANS**

**A. Each applicant for rezoning shall be required to furnish the City Planner with the following information:**

1. A drawing to scale of the property to be rezoned, and when required, with the location of all existing and proposed structures.
2. Map with name and address of all adjacent property owners, as shown on current tax map.
3. Location map showing properties proximity to other uses.
4. Legal description of property to be rezoned.

## **SECTION 5.3 ANNEXATION ZONING<sup>3</sup>**

All properties annexed into the City of Opelika shall receive the R-1 (Rural) District designation. If another zoning designation is desired, the owner or authorized representative shall make application for rezoning in accordance with the provisions of the Zoning Ordinance.

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<sup>3</sup> Date of Amendment: December 19, 2012 Ordinance No. 130-12

**SECTION VI**  
**ESTABLISHMENT OF ZONING DISTRICTS**

**SECTION 6.1 DISTRICTS**

For the purposes of this ordinance, the City of Opelika is hereby divided into zoning districts, which are designated as follows<sup>1</sup>:

<u>District</u>	<u>Map Symbol(s)</u>
Rural District	R-1
Residential Transition District	R-1A
Low Density Residential	R-2, R3
Medium Density Residential	R-4, R-4M
High Density Residential	R-5, R-5M
Downtown Commercial	C-1
Office/Retail	C-2
General Commercial	C-3
Industrial Districts	M-1, M-2
Institutional District	I-1
Special Districts:	
Flood Plain Overlay District	FP
Airport District	AP
Gateway Corridor Overlay District	GC-1, GC-2
Planned Residential Development District	PRD
Planned Unit Development District	PUD
Retail/Entertainment District	R/E
Hospitality Overlay District	HOD

**SECTION 6.2 MAP OF ZONING DISTRICTS**

Zoning Districts established by this ordinance are bounded and defined as shown on the official Zoning Map of the City of Opelika, Alabama which, together with explanatory materials contained thereon, is hereby made a part of this ordinance.

**SECTION 6.3 INTERPRETATION OF DISTRICT BOUNDARIES**

1. The following rules shall be used to determine the precise location of any district boundary shown on the official Zoning Map of the City of Opelika:

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<sup>1</sup> Date of Amendment: December 6, 1995    Ordinance No. 138-95

- a) Boundaries shown as following or approximately following the limits of any municipal corporation shall be construed as following such limits.
- b) Boundaries shown as following or approximately following streets shall be construed to follow the centerlines of such streets.
- c) Boundaries shown as following or approximately following platted lot lines or other recorded property lines shall be construed as following such lines.
- d) Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
- e) Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.
- f) Boundaries shown as following or approximately following shorelines of any lakes shall be construed to follow the mean high water line of such lakes and, in the event of change in such mean high waterline, shall be construed as moving with the actual mean high waterline.
- g) Boundaries shown as following or approximately following streams or other continuously flowing watercourses shall be construed as following the thread, or channel centerline, of such watercourses taken at mean low water and, in the event of a natural change in the location of such watercourses, shall be construed as moving with the thread, or channel centerline, of such watercourses.
- h) Boundaries shown as separated from, and parallel or approximately parallel to, any of the features listed in paragraphs a-g above shall be construed to be parallel to such features and at such distances there from as are shown on the map.

## SECTION 6.4 PURPOSE AND INTENT OF ZONING DISTRICTS

The following sections specify the purpose and intent of the zoning districts established by this ordinance. Uses specified in this section are examples only. Specific uses allowed in each district are defined in Section 7.

**R-1 Rural District.** This district is intended to protect those areas of Opelika, which are agricultural in character and use, and to provide areas for the development of extremely low-density residential uses. Development in these acres will be limited to acreage tracts and customary agricultural uses and it will be an area where mobile home living and recreational vehicle parks<sup>2</sup> will be conditionally permitted. As increased services become available it is intended that this area will transition to higher intensity uses.

**R-1A Residential Transition District.** This district is intended to protect those areas of the City of Opelika to develop as a residential transition district that permits residential lot sizes compatible with R-1 and R-2 densities.<sup>3</sup>

**R-2, R-3 Low Density Residential District.** These districts are intended to provide areas for development not exceeding four (4) dwelling units per acre. It is desirable that development

<sup>2</sup> Date of Amendment: September 1, 1992    Ordinance No. 131-92    add and recreational vehicle parks

<sup>3</sup> Date of Amendment: November 7, 2007    Ordinance No. 118-07    create R-1A

in these districts be compatible with the character, scale, and density of the existing neighborhood.

**R-4, R-4M Medium Density Residential Districts.** These areas are for all types of residential development including, but not limited to single family detached, duplexes, cottages, townhouses, apartments, patio homes, cluster homes, mobile homes, subdivisions, and mobile home parks in developments not exceeding nine (9) units per acre. Developments in this district should be served by sanitary sewer, and should be in context with the scale and character of the existing neighborhood.

**R-5, R-5M High Density Residential Districts.** These districts are for areas with densities not exceeding sixteen (16) dwelling units per acre. Developments in these districts should be limited to areas having sanitary sewer. These developments should be in proper scale and context with the existing neighborhood.

**C-1 Downtown Commercial District.** This district is the central business core of Opelika located in the old, historic downtown area. Uses typically include retail, office, banking, insurance, government, food service, high density residential, service, and limited light assembly and manufacturing. Development here is characterized by lot line to lot line construction, lack of off-site parking, and mixed uses within building properties.

**C-2 Office/Retail District.** This district is intended to provide areas for offices and neighborhood small retail uses. Other uses would include residential, banks, fast food, convenience stores and similar uses.

**C-3 General Commercial District.** This district is characterized by a broad range of retail, wholesale, and service uses and is equivalent to previous general and highway business districts. Uses allowed are motels, individual businesses, small strip centers, banks, fast-food establishments, grocery stores, and similar uses. These areas should be served by sanitary sewer.

**M-1, M-2 Industrial Districts.** These districts are intended for a wide range of uses, including but not limited to, manufacturing, wholesale, warehouse, processing, assembling and commercial. Should be served by sanitary sewer or have provision for adequate on-site disposal. M-1 is for private ownership and M-2 is for public ownership such as the Opelika Industrial Development Board, etc.

**I-1 Institutional District.** This district is intended for major institutional uses such as; governmental buildings, parks, cemeteries, schools, the East Alabama Medical Center, and related medical uses. Uses in this district will be limited in order to establish areas for these uses and to protect them from the intrusion of incompatible uses.

**AP<sup>4</sup>, FP<sup>5</sup>, GC-1<sup>6</sup>, GC-2<sup>7</sup>, PRD<sup>8</sup>, PUD<sup>9</sup>, R/E<sup>10</sup>, HOD<sup>11</sup> Special Districts.** Districts such as the Airport District, Flood Plain Overlay District, and Gateway Corridor Overlay District are

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<sup>4</sup> Date of Amendment: December 6, 1995 Ordinance No. 138-95

<sup>5</sup> Date of Amendment: December 6, 1995 Ordinance No. 138-95

<sup>6</sup> Date of Amendment: December 6, 1995 Ordinance No. 138-95

intended to provide special designated areas to take advantage of or highlight unique opportunities or situations in an area. They are characterized by special controls or design factors within those districts, and may not in all cases exist at the time of the adoption of this ordinance at any location in the city.<sup>12</sup>

**HOD Hospitality Overlay District.** This district is intended to provide an area in downtown Opelika with a special classification for unique mixed use commercial and residential development. The HOD will be characterized by its focus in a variety of entertainment and art venues, retail, personal services, offices and restaurants. (See Section 7.9 Hospitality Overlay District)<sup>13</sup>

**PRD Planned Residential Development District.** An area of minimum contiguous size, as set forth in the ordinance, to be planned, developed, operated, and maintained as a single entity and containing one (1) or more residential types and limited commercial uses incidental to the residential development.<sup>14</sup>

**SEE SECTION 8.18.1** for complete regulations.

**PUD Planned Unit Development District**

**SEE SECTION 8.18** for complete regulations.

**R/E Retail/Entertainment District**

A. The Retail/Entertainment District (the “R/E District”) is intended to provide an area in Opelika with a special classification for unique, mixed-use developments. The R/E District will be characterized by its focus on tourism, with a variety of entertainment venues, retail, service, and residential. Due to the intended uses, size, scope and breadth of the development, the R/E District will have a regional economic impact and cannot be reasonably served by existing zoning classifications and districts. Because of the District’s size, location and opportunities, modification of and limitation in the restrictions imposed by typical or conventional zoning and ordinances, including those governing noise, signage, parking and landscaping, is vital. The R/E District will be limited to developments meeting the criteria set forth herein and will only be granted upon application to and approval by the Council, No property may be zoned for R/E District status unless its meets the following criteria:

1. The initial development must include no less than 500 contiguous acres at the time of application. After an area is zoned Retail/Entertainment, the original applicant, or its assignee, may add additional contiguous tracts to the R/E District and no other property may be included into the R/E District without the express written consent of the original applicant, or its assignee;

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<sup>7</sup> Date of Amendment: December 6, 1995 Ordinance No. 138-95

<sup>8</sup> Date of Amendment: November 7, 2007 Ordinance No. 118-07

<sup>9</sup> Date of Amendment: November 7, 2007 Ordinance No. 118-07

<sup>10</sup> Date of Amendment: November 7, 2007 Ordinance No. 118-07

<sup>11</sup> Date of Amendment: November 3, 2010 Ordinance No. 124-10

<sup>12</sup> Date of Amendment: December 6, 1995 Ordinance No. 138-95

<sup>13</sup> Date of Amendment: November 3, 2010 Ordinance No. 124-10

<sup>14</sup> Date of Amendment: November 7, 2007 Ordinance No. 118-07

2. The designated area must be contiguous with Interstate 85 and have access to at least two (2) interstate interchanges. For this purpose, “access” shall be deemed to mean that the main road(s) into the R/E District must intersect another roadway having direct access to the interstate within one half mile of an interstate interchange;
3. At the time of the original application, the applicant must submit a conceptual master plan for the entire R/E District;

**B.** No portion of the zoning regulations (including but not limited to those specifically set forth below) for the City of Opelika for any other zoning district shall apply to the R/E District all of which shall be superseded by this amendment.

**C.** Lots within the R/E District shall have no minimum lot size or setback requirements.

**D.** Limitations and restrictions on parking, signage, noise, lighting and landscaping shall not apply within an R/E District except to the extent specifically addressed herein. The height of any building may not exceed seventy-five feet (75’) exclusive of architectural features, fascia and screening walls.

**E.** On-premise/off-premise business and advertising signs, reader boards and banners are permitted throughout the R/E District and may include advertising material for any business or activity located within and without the R/E District so long as the same complies with applicable state and federal laws.

**F.** Uses Allowed/Disallowed. Any use permitted as “Allowed” or “Conditional Use” in any other District may be permitted anywhere within an R/E District, including but not limited to residential (as hereinafter limited), commercial and office, and such uses may be integrated within a single development or within a single building. Further, the uses may be mixed with multiple uses, for example residential and retail/office, being located within the same building.

Notwithstanding the foregoing, the following uses are prohibited:

1. Any use with an obnoxious odor;
2. Any noxious, toxic, caustic, or corrosive fuel or gas related use; provided however this shall not prevent the operation of a gasoline service station;
3. Any dust, dirt, or fly ash in excessive quantities;
4. Any unusual fire, explosion or other damaging or dangerous hazard, except that this shall not prevent the storage, display, sale or use of fireworks;
5. Any assembling, manufacturing, refining, smelting, or mining operation; provided however, this shall not prevent the manufacture or assembling of crafts and other artisan products by tenants or owners with retail outlets within the R/E District;
6. Any manufactured home or trailer court; provided however this shall not prevent any property within the R/E District from being used for a RV park, and the temporary use of construction trailers during periods of construction, reconstruction or maintenance;
7. Labor camp, salvage yard, stock yard, animal raising (notwithstanding the foregoing, pet shops, veterinary clinics or hospitals shall be permitted, provided that such business shall be so conducted with all laws or ordinances governing such operations, and ,

provided further, that this shall not prevent equestrian events, rodeos, animal shows and related animal boarding);

8. Any drilling for, in or removal of subsurface substances;
9. Any dumping, disposing, incinerating or reduction of garbage or refuse (exclusive of garbage compactors located in the rear of any building and screened as required herein);
10. Funeral establishments or mortuaries;
11. Any unsightly or unscreened garbage or trash receptacle or accumulations of garbage or trash;
12. Residential Density is limited to a maximum of twenty-five (25) dwelling units per acre.<sup>15</sup>

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<sup>15</sup>Date of Amendment: November 7, 2007 Ordinance 118-07

## SECTION VII

### DISTRICT REGULATIONS

Within the Zoning Districts established there, are certain uses permitted, density limitation imposed, and special requirements set forth. This section establishes those uses permitted, limits density, and sets forth certain special regulations in order to achieve compatibility and to implement the Opelika Comprehensive Plan.

#### SECTION 7.1 USES PERMITTED IN ALL DISTRICTS

**A. There shall be permitted in all districts the following uses.**

1. Public Utilities (but not including power and gas substations and pumping stations).
2. Public Buildings of a governmental nature, including libraries.
3. Accessory Structures
4. Home Occupations

#### SECTION 7.2 CONDITIONAL USES PERMITTED IN ALL DISTRICTS WITH REVIEW

**A. There shall be permitted in all districts the following conditional use only after site plan review by the Planning Commission, specifics for which are established by Section 8.16.**

1. Public Utilities, not otherwise specified, including power and gas substations and pumping stations.
2. General Hospitals for Humans, (including nursing homes.)
3. Semi-public buildings and uses, including private schools and churches.
4. Public School Buildings and Associated Uses
5. Public Recreational Facilities, including parks, playgrounds, stadiums, etc.
6. Communication Towers<sup>1</sup>

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<sup>1</sup> Date of Amendment: August 19, 1997      Ordinance No. 120-97

## SECTION 7.3 SPECIFIC DISTRICT REGULATIONS

The following pages contains specific regulations for each district including uses permitted, uses prohibited, required lot area, density limitations, setbacks, and height limitations.

### A. District Regulation.

The following regulations govern the yard and area requirements for each district.

AREA REQUIREMENTS	DISTRICTS												
	R-1	R-1A	R-2	R-3 <sup>1</sup>	R-4/M	R-5/M	C-1	C-2	C-3	M-1	M-2	I-1	GC <sup>5-9</sup>
Minimum Lot Size (vs.) 10,000	43,560	30,000	15,000	10,000	7,500	7,500							20,000
Dwelling Units Per Acre <sup>2,3</sup>	1	1.25	2.5	3.5	9	16	16 <sup>4</sup>	16	16				
Minimum Lot Width (ft.)	100	90	80	70	60	60	60	60	60	60	60	60	150
Front Yard Setback (ft.)	50	40	35	30	25	25	None	30	30	40	40	20	40 <sup>7</sup>
Rear Yard Setback (ft.)	50	35	30	25	20	20	None	30	20	30	30	30	20 <sup>7</sup>
Side Yard Setback (ft.)	25	20	15	10	10	10	None	10	10	30	30	30	20 <sup>7</sup>
Maximum Building Area (%)	25	25	25	40	40	60	100	40	50	50	50	50	
Max. Impervious Surface Area (%)													70
Max. Building Height (ft.)	35	35	35	35	45	45	75	75	75	75	75	75	75
Maximum Height of Signs	30	30	30	30	30	30	30	30	30	30	30	30	30
Minimum Livable Floor Area Single Family	800	800	800	800	800	800		800	800	800	800	800	800

#### NOTES:

1. Area requirements will be applied for each conditional use for uses such as townhouses, patio homes, garden homes, or any other use requiring conditional approval by the Planning Commission.
2. The placement of a single family residence should be in context with the scale and character of the existing neighborhood.
3. Maximum dwelling units allowed is to be determined as a factor of lot sizes, fractional number of units allowed per acre, lot coverage allowed, and building height limitations.
4. Densities may be increased by the Planning Commission through conditional use review by a maximum of 25%.
5. For residential development in commercial districts area requirements of R-5 shall apply. However, the Planning Commission may require greater conditions where deemed necessary in its review.

<sup>1</sup> Date of Amendment: July 15, 2014- R-3 any final subdivision plat recorded prior to September 17, 2013 shall meet the following area requirements: Min. Lot Size 7,500 sf, Min. Lot Width 60 ft.; and Front Yard Setback 25 ft. Any deviation from area requirements prior to September 17, 2013 shall be considered by the Board of Zoning Appeals  
*Zoning Ordinance, Section VII: District Regulations, January 8, 2003*

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6. GC Overlay district, Lighting Requirements: Light or glare from any operation and all lighting for parking areas or for the external illumination of buildings or for the external illumination of buildings or grounds shall be directed or located in a manner such that direct or indirect illumination from the source of light shall not exceed one foot-candle measured from any property line adjoining a residential zoning district. Outside lights for nonresidential properties/uses must be made up of a light source and reflector so that acting together the light beam is controlled and not directed across an adjacent property. It is the intent of this provision to prevent light from spilling over to adjacent properties in amount that can create negative impacts. Lighting plans shall be reviewed and approved by the Planning Commission (see Section 7.6 B.2.15). The Planning Commission requires that appropriate lighting in accordance with the latest recommendations of the Illuminating Engineering Society (IES) guidelines be followed. It is recommended that for lighting parking areas, the developer use a vertical burn, super metal halide, forward projection fixture using cut-off type housing, i.e. shoe box type housing. In addition, it is recommended that the poles be made of metal and of a platinum color to lessen their visibility during the day and that, the heights of the poles not exceed 25 feet.
  7. GC Overlay District, Setbacks. The setback requirements may be varied by the Planning Commission as part of development plan approval (see Section 7.6); if an alternative access, roadway/driveway is provided/available so that access is not taken directly from the designated corridor. It is recommended that access be provided via a perpendicular access road in order to protect the integrity of the subject corridor.
  8. GC Overlay District, off street Parking Landscape requirements. In addition to requirements set forth in Section X, Landscape Regulations of the Opelika Zoning Ordinance, the following buffer and landscape requirements apply. A 6 foot parking lot buffer shall be planted between the property line and edge of parking lot (asphalt) consisting of medium and understory trees, and shrubbery as listed in Section 10.6 D.2.b of the Landscape Regulations. Off street parking lots, fronting on a public right-of-way shall provide a 15 foot wide planting area between the property line and edge of parking lot. The planting area shall consist of plants as listed in Section 10.6, D.2.b of the Landscape Regulations. Off street parking lots with 25 parking spaces or more shall designate parking lot islands and/or peninsulas as planting areas. The planting areas shall be located to divide and break up expanses of parking stalls, and the size of each planting area shall be sufficient to accommodate growth of trees and shrubs. Each planting area shall consist of at least 1 canopy tree or 1 medium tree with each consecutive planting area alternating these types of trees. The remaining planted area shall be planted to capacity with shrubs or other approved plantings. Landscape plans shall be approved by Planning Department. If these Gateway Corridor requirements and Landscape coincide or overlap, the most restrictive regulation shall take precedence.
    - i) GC Overlay District: All utility meters, ground-mounted air conditioning and similar mechanical units shall be screened so as not to be visible beyond the boundaries of the site. Plans must be approved by relevant utility company for safety.
  10. For new construction in the GC Overlay District: Fifty percent (50%) or more of the surface area of the façade to be used on new buildings shall be natural in appearance. Preference is given to materials such as wood, brick, stucco or glass. Second choice of materials includes other siding that simulates natural materials. A statement shall be submitted to the Planning Department and Building Official for review. The use of simulated exterior materials must have Planning Commission approval. A natural material or approved simulated exterior material shall cover the wall(s) of a building(s) facing all public rights-of-way. The side or rear of a building visible to a gateway roadway shall be reviewed by the Planning Commission to determine the extent of utilizing the natural material or approved simulated exterior material. Trims, building details, dumpster gates, etc. may be made of a man-made material with Planning Commission approval.

**B. Uses Allowed.**

Uses allowed in each zoning district are determined from the following matrix. Categories for each use are:

1. Allowed – Allowed by right. Applicant need only submit the necessary plans for review to the zoning administrator.
2. Conditional Use – Further review required by the Planning Commission as directed by Section 8.17 of this ordinance.
3. Not allowed – Use not allowed in this zone.

Allowed – A      Conditional – C      Not Allowed – N

**C. Use Categories.**

USES	DISTRICTS														
	R-1	R-1A	R-2	R-3	R-4	R-4M	R-5	R-5M	C-1	C-2	C-3	M-1	M-2	I-1	GC
<b>RESIDENTIAL</b>															
Outdoor Advertising*	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Single-Family	A	A	A	A	A	A	A	A	C	A	A	N	N	A	A
Duplex	N	N	N	C	A	A	A	A	N	N	N	N	N	N	C
Apartments	N	N	N	N	C	C	C	C	C	C	C	C	N	C	C
Townhouse	N	N	N	N	C	C	C	C	C	C	C	N	N	N	C
Patio Houses	N	N	N	N	C	C	C	C	N	C	C	N	N	N	C
Mobile Home	N	N	N	N	N	A	N	A	N	N	N	N	N	N	N
Mobile Home Park & Subdivision	N	N	N	N	N	C	N	C	N	N	N	C	N	N	N
<b>Houses For Handicapped or Infirm</b>															
Child Care Homes	N	N	N	N	C	C	C	C	N	C	C	N	N	A	C
Group Homes	C	C	C	C	C	C	C	C	N	C	C	N	N	A	C
Domiciliary	C	C	C	C	A	A	A	A	N	C	C	N	N	C	C
<b>Miscellaneous Rooms for Rent</b>															
Rooming House, Boarding House	N	N	N	C	A	A	A	A	N	A	A	N	N	N	C
Tourists Home, Bed & Breakfast Inn	N	N	N	N	N	N	N	N	A	A	A	N	N	A	C
Hotel, Motels, and Similar Business	N	N	N	N	N	N	N	N	A	A	A	N	N	A	C
Recreational Vehicle Park	C	C	N	N	N	C	N	C	C	N	N	N	N	N	C
Temporary Emergency, Construction and Repair Residences	A	A	A	A	A	A	A	A	A	A	A	A	A	A	C
<b>COMMERCIAL</b>															
Outdoor Advertising*	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
No Storage & Display of Goods Outside Fully enclosed Building															
less than 100,000 Square Feet GLA	N	N	N	N	N	N	N	N	A	A	A	C	N	N	A
more than 100,000 Square Feet GLA	N	N	N	N	N	N	N	N	C	C	C	C	N	N	C
<b>Adult Businesses</b>	N	N	N	N	N	N	N	N	N	N	C	C	N	N	N
<b>Body Art (Tattoo &amp; Piercing)</b>	N	N	N	N	N	N	N	N	N	N	C	A	N	N	N
<b>Package Liquor Store</b>	N	N	N	N	N	N	N	N	N	N	C	C	N	N	N

USES	DISTRICTS														
	R-1	R-1A	R-2	R-3	R-4	R-4M	R-5	R-5M	C-1	C-2	C-3	M-1	M-2	I-1	GC
<b>COMMERCIAL CONTINUED</b>															
Storage and Display of Goods Outside Fully Enclosed Building Allowed															
All Other Less Than 100, 000 Square Feet GLA	N	N	N	N	N	N	N	N	C	C	C	C	N	N	C
All Other More Than 100,000 Square Feet GLA	N	N	N	N	N	N	N	N	C	C	C	C	N	N	C
Truck Stop	N	N	N	N	N	N	N	N	N	N	C	C	N	N	N
Mobile Home Sales	N	N	N	N	N	N	N	N	N	N	C	C	N	N	N
Truck and Tractor Sales	N	N	N	N	N	N	N	N	N	N	C	C	N	N	C
<b>Offices, Clinical, Research and Services Not Primarily Related To Goods or Merchandise</b>															
Operation Designed to Attract and Serve Customer or Clients on Premises such as Office of Attorney, Physicians, Other Professions, Insurance, Stock Broker, Government Building, etc.	N	N	N	N	N	N	N	N	A	A	A	C	N	A	A
Office of Physicians or Dentist	N	N	N	N	N	N	N	N	A	A	A	C	N	A	A
Banks	N	N	N	N	N	N	N	N	A	A	A	A	N	A	A
Banks with Drive-in Windows	N	N	N	N	N	N	N	N	N	A	A	A	N	A	A
<b>Office of Contractor</b>															
With Equipment and Material Yard	N	N	N	N	N	N	N	N	N	N	C	A	A	N	N
Without Equipment and Material Yard	N	N	N	N	N	N	N	N	A	A	A	A	A	N	C
<b>Automobile Related</b>															
Automobile Maintenance Establishment	N	N	N	N	N	N	N	N	N	C	C	A	A	N	C
Automobile Repair	N	N	N	N	N	N	N	N	N	N	C	A	A	N	N
Automobile Service Station	N	N	N	N	N	N	N	N	N	C	C	A	N	N	C
Convenience Store with Gas Station/Automatic Car Wash	N	N	N	N	N	N	N	N	N	C	C	A	N	N	C
Automobile Sales	N	N	N	N	N	N	N	N	N	N	C	C	N	N	C
<b>Car Wash</b>															
Self-Service, unattended, open bay	N	N	N	N	N	N	N	N	N	C	A	A	N	N	N
<b>Bus Station</b>	N	N	N	N	N	N	N	N	N	C	A	A	N	N	C
<b>Day Care Center</b>	N	N	N	N	C	C	C	C	C	A	A	A	N	A	C
<b>Dry Cleaner</b>	N	N	N	N	N	N	N	N	A	A	A	A	N	N	C

Zoning Ordinance, Section VII: District Regulations, January 8, 2003

USES	DISTRICTS														
	R-1	R-1A	R-2	R-3	R-4	R-4M	R-5	R-5M	C-1	C-2	C-3	M-1	M-2	I-1	GC
<b>Manufacturing, Processing, Creating Repairing, Renovating, Painting, Clearing Assembling of Goods, Merchandise and Equipment</b>															
All Operations Conducted Within															
Fully Enclosed Building	N	N	N	N	N	N	N	N	N	C	C	A	A	N	C
Operations Conducted Within or Outside															
Fully Enclosed Building	N	N	N	N	N	N	N	N	N	N	C	A	A	N	C
Social, Fraternal clubs and Lodges and Union Halls, and Similar Uses	C	C	N	N	C	C	C	C	A	A	A	N	N	C	C
Bowling Alleys and Skating Rinks	N	N	N	N	N	N	N	N	A	A	A	A	N	N	C
Indoor Fitness Center	N	N	N	N	N	N	N	N	A	A	A	A	N	N	C
Indoor/Outdoor Fitness Center	N	N	N	N	N	N	N	N	N	A	A	A	N	N	C
Billiard and Pool Halls	N	N	N	N	N	N	N	N	A	A	A	A	N	N	C
Movie Theater	N	N	N	N	N	N	N	N	A	A	A	A	N	N	C
<b>Activity Conducted Primarily Outside Enclosed Buildings or Structure</b>															
Private Owned Outdoor Recreational Facilities such as Golf and Country Clubs, Swimming or Tennis Clubs, etc.	C	C	N	N	N	N	N	N	N	N	A	N	N	N	C
Golf Driving Range, Miniature Golf, Skateboard Park, Bicycle Race Tract	C	C	N	N	N	N	N	N	N	C	A	N	N	N	C
Horse Back Riding Stables	A	A	N	N	N	N	N	N	N	N	N	N	N	N	N
Automobile or Motorcycle Racing Tracts	C	C	N	N	N	N	N	N	N	N	N	C	N	N	N
Commercial Recreational Fishing	A	N	N	N	N	N	N	N	N	N	N	N	N	N	N
<b>Restaurants</b>	N	N	N	N	N	N	N	N	A	A	A	A	A	A	C
<b>Lounge (Also called bar/nightclub)</b>	N	N	N	N	N	N	N	N	C	C	C	C	N	N	C
<b>Brewpub</b>	N	N	N	N	N	N	N	N	A	A	A	A	N	N	N
<b>Micro-breweries</b>	N	N	N	N	N	N	N	N	C	N	C	A	N	N	N
<b>Micro-distilleries</b>	N	N	N	N	N	N	N	N	C	N	C	A	N	N	N

USES	DISTRICTS														
	R-1	R-1A	R-2	R-3	R-4	R-4M	R-5	R-5M	C-1	C-2	C-3	M-1	M-2	I-1	GC
<b>Storage: Storage of goods not related to sale of use of those goods on the same lot where they are stored.</b>															
All storage within completely enclosed structures	N	N	N	N	N	N	N	N	N	C	C	A	A	N	C
Storage inside or outside completely enclosed structure	N	N	N	N	N	N	N	N	N	N	C	A	A	N	N
Mini warehouse	N	N	N	N	N	N	N	N	N	C	C	A	A	N	N
Scrap Materials, Salvage Yard, Junkyard, Automobile Graveyard	N	N	N	N	N	N	N	N	N	N	C	C	C	N	N
<b>Services and Enterprises Related to Animals</b>															
Veterinarian	C	C	N	N	N	N	N	N	N	A	A	A	N	N	C
Kennel	C	C	N	N	N	N	N	N	N	N	N	C	N	N	N
<b>Laundromat</b>	N	N	N	N	N	N	N	N	A	A	A	A	N	N	N
<b>Agricultural, Mining, Quarrying Operation</b>															
Agricultural Operations with Livestock	C	C	N	N	N	N	N	N	N	N	N	N	N	N	C
excluding Livestock	A	A	N	N	N	N	N	N	N	N	N	N	N	N	N
Mining or Quarrying, including on-site sale of products	C	C	N	N	N	N	N	N	N	N	N	C	N	N	C
<b>Miscellaneous Public &amp; Semi Public Facilities</b>															
Post Office	N	N	N	N	N	N	N	N	C	C	A	A	N	N	C
Airport	C	C	N	N	N	N	N	N	N	N	N	A	N	A	C
Sanitary Land Fill	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Military Reserve or National Guard Center	N	N	N	N	N	N	N	N	N	N	N	A	N	A	N
<b>Open Air Markets</b>															
Farm and Craft Market	C	C	N	N	N	N	N	N	N	N	A	N	N	N	N
Produce Market	C	C	N	N	N	N	N	N	C	N	A	N	N	N	N
Flea Market	N	N	N	N	N	N	N	N	N	N	C	C	N	N	N
<b>Horticulture Sales w/Outdoor Display</b>	C	C	N	N	N	N	N	N	N	C	C	C	N	N	N

**USES**

**DISTRICTS**

	R-1	R-1A	R-2	R-3	R-4	R-4M	R-5	R-5M	C-1	C-2	C-3	M-1	M-2	I-1	GC
<b>Commercial Greenhouse Operations</b>															
No on-premise sales	C	C	N	N	N	N	N	N	N	C	A	A	N	N	N
On-premise sales permitted	C	C	N	N	N	N	N	N	N	C	A	A	N	N	N
<b>Funeral Home</b>															
<b>Cemetery</b>	C	C	N	N	N	N	N	N	N	N	C	C	N	A	N
<b>Mausoleum</b>	C	C	N	N	N	N	N	N	N	N	C	C	N	A	N
<b>Columbarium</b>	C	C	N	N	N	N	N	N	N	N	C	C	N	A	N
<b>Crematorium</b>	C	C	N	N	N	N	N	N	N	N	C	C	N	A	N
<b>Medical Related</b>															
Medical or Dental Clinic	N	N	N	N	N	N	N	N	A	A	A	N	N	A	C
Pharmacies	N	N	N	N	N	N	N	N	A	A	A	N	N	A	C
Medical Research Laboratories	N	N	N	N	N	N	N	N	N	A	A	A	A	A	C
Retail Medical Supply	N	N	N	N	N	N	N	N	A	A	A	A	N	A	C

\* The prohibition of outdoor advertising as a permitted use does not extend to lawfully existing billboard structures and to certain billboard structures that may be constructed in the future pursuant to vested rights obtained prior to December 31, 2015 through an approved settlement agreement with the City, subject to the conditions, limitations and restrictions set forth in Section 8.26 Outdoor Advertising which describe the exceptions to the prohibited use of the business of outdoor advertising.”

Date of Amendments:

September 1, 1992	Ord. No. 131-92	(add Recreational Vehicle Park)
December 6, 1995	Ord. No. 138-95	(add GC-1, GC-2 zones to matrix)
January 4, 1995	Ord. No. 101-95	(further amending uses Funeral, Cemetery, Mausoleum, & Crematorium)
July 19, 1995	Ord. No. 122-95	(add Mausoleum and Crematorium)
December 6, 1995	Ord. No. 137-95	(Add Storage Section )
January 7, 1997	Ord. No. 100-97	(C-3 allowed to conditional)
January 20, 1998	Ord. No. 102-98	(Gateway-sign regulations, IRS, etc.)
December 1, 1998	Ord. No. 135-98	(Gateway-Ext. materials, uses, etc.)
October 3, 2000	Ord. No. 125-00	(add Adult Businesses to matrix)
December 19, 2000	Ord. No. 135-00	(Setbacks, GC-1, GC-2, M-1, M-2, etc.)
May 1, 2001	Ord. No. 144-01	(R-4 Rear Yard Setback 20)
September 18, 2001	Ord. No. 160-01	(Apartment and Townhouses Uses)
November 6, 2001	Ord. No. 165-01	(Planned Residential Development)
January 8, 2002	Ord. No. 102-02	(Materials in GC-1 and GC-2)
January 21, 2003	Ord. No. 101-03	(Change Single Family C to A in C1,2,2 I1, GC)
June 19, 2007	Ord. No. 108-07	(Light Manufacturing in C-2)
November 7, 2007	Ord. No. 118-07	(Add R-1A, Residential Uses, etc.)
November 17, 2009	Ord. No. 121-09	(Change Airport to A in I1 zoning)
July 20, 2010	Ord. No. 112-10	(Add Package Liquor Store)
November 3, 2010	Ord. No. 122-10	(I-1 to Allowed Attract & Serve Customers or Clients Premis)
November 3, 2010	Ord. No. 123-10	(Add Recreational Commercial Fishing A in R-1 only)
February 1, 2011	Ord. No. 101-11	( Add 7.3 A Minimum Livable Floor Area (Single Family) 800 SF)

Date of Amendments:

August 16, 2011	Ord. No. 111-11	Restaurants add Lounge...
September 20, 2011	Ord. No. 115-11	(Sign Height...)
September 20, 2011	Ord. No. 116-11	(Add Body Art,Tatt. & Piercing)
September 18, 2013	Ord. No. 114-13	R1A, R2, R3 FYS, SYS, Units
February 18, 2014	Ord. No. 102-14	(Add Micro-breweries
July 2, 2014	Ord. No. 118-14	(Combine GC1 & 2)
September 17, 2014	Ord. No. 124-14	(GC Lot wdt 100 to150 ft)
May 18, 2016	Ord. No. 113-16	(Outdoor Advertising*)

## SECTION 7.4 AIRPORT OVERLAY DISTRICT

The regulations set forth in this Section shall apply to all property included within the airport height control zones of the Auburn University Regional Airport, referred hereafter as “Airport”, as specified in this Section.

### 7.4.01 Purpose.

The purpose of these regulations are to regulate and restrict the height of buildings, structures, and objects of natural growth and otherwise regulate the use of property in the vicinity of the airport by creating the appropriate airport zones and establishing the boundaries thereof.

### 7.4.02 Definitions.

The definitions in this section are applicable only to Section 7.4 of the Zoning Ordinance.

**Airport public use.** An area of land or water designed and set aside for the landing and taking off of aircraft, used or to be used in the interest of the public for such purpose.

**Airport noise impact zone.** An area contiguous to a public use airport measuring one-half (1/2) the length of the longest planned runway (as shown on the Airport’s approved Airport Layout Plan) on either side of and at the end of each planned runway centerline. For land use control purposes, this boundary shall be considered to be consistent with the sixty-five (65) to seventy (70) Idn zone determined by an official Part 150 Noise Study or other recognized study, such as an Environmental Assessment.

**Airport North-South approach zone.** Runway 18-36: An imaginary approach surface for precision instrument runways as defined by 14 CFR Part 77.25 as amended.

**Airport Northwest-Southeast approach zone.** Runway 11-29: An imaginary approach surface for non-precision instrument runways with visibility of greater than three-fourths (¾) of a statute mile as defined by 14 CFR Part 77.25 as amended.

**Airport obstruction (hazard).** Any structure or object of natural growth or use of land which would exceed the federal obstruction standards as contained in 14 CFR Parts 77.21, 77.23, 77.25, 77.28, and 77.29 as amended and which obstructs the airspace required for flight of aircraft in taking-off, maneuvering or landing at the airport or is otherwise hazardous to taking-off, maneuvering or landing of aircraft, and is not permitted, or for which a variance has not been granted.

**Airport Primary Zone.** An area longitudinally centered on a runway, extending two hundred (200) feet beyond each end of that runway with the width so specified for each runway for the most precise approach existing or planned for either end of the runway.

**Airport Runway Protection Zone.** An area off the runway end to enhance the protection of people and property on the ground.

**All Other Schools and Instruction.** Establishments primarily engage in offering instruction (except business, computer, management, technical, trade, fine arts, athletic, and language instruction). Also excluded from this industry are academic schools, colleges, and universities.

**Assembly Hall.** A structure for groups of people to gather for an event or regularly scheduled program. Places of public assembly include but not limited to auditoriums, banquet halls, convention centers, religious institutions, stadiums, theaters, and other similar uses. The following definitions of auditorium, banquet hall, convention center, religious institution, stadium, and theater are to be used in conjunction ONLY with the assembly hall definition above.

- a. Auditorium: An open, partially enclosed, or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions, and other public gatherings. Typical uses include convention and exhibition halls, sports arenas, and amphitheaters.
- b. Banquet Hall: A meeting facility which may also include on-site Kitchen/catering facilities. The banquet/reception hall's primary purpose is a location for activities such as weddings and other such gatherings by appointment.
- c. Convention Center: A facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption.
- d. Religious Institution: A building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social events and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.
- e. Stadium: A large open or enclosed space used for games or major events, and partly or completely surrounded by tiers of seats for spectators.
- f. Theater: A building or part of a building devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances.

**Business & Secretarial Schools.** Establishments primarily engaged in offering courses in office procedures and secretarial and stenographic skills and may offer courses in basic office skills, such as word processing. In addition, these establishments may offer such classes as office machine operation, reception, communications, and other skills designed for individuals pursuing a clerical or secretarial career. Instruction may be provided in diverse settings, such as the establishments or client's training facilities, educational institutions, the workplace, or the home, and through diverse means, such as correspondence, television, the Internet, or other electronic and distance-learning methods. The training provided by these establishments may include the use of simulators and simulation methods.

**Child Day Care Services.** Establishments primarily engaged in providing day care of infants or children. These establishments generally care for preschool children, but may care for older children when they are not in school and may also offer pre-kindergarten educational programs.

**Colleges, Universities, and Professional Schools.** Establishments primarily engaged in furnishing academic courses and granting degrees at baccalaureate or graduate levels. The requirement for admission is at least a high school diploma or equivalent general academic training. Instruction may be provided in diverse settings, such as the establishments or client's training facilities, educational institutions, the workplace, or the home, and through diverse means, such as correspondence, television, the Internet, or other electronic and distance-learning methods. The training provided by these establishments may include the use of simulators and simulation methods.

**Elementary and Secondary Schools.** Establishments primarily engaged in furnishing academic courses and associated course work that comprise a basic preparatory education. A basic preparatory education ordinarily constitutes kindergarten through 12th grade. This industry includes school boards and school districts.

**Fine Arts Schools.** Establishments primarily engaged in offering instruction in the arts, including dance, art, drama, and music.

**Freestanding Emergency Centers.** Establishments with physicians and other medical staff primarily engaged in providing emergency care services (e.g., setting broken bones, treating lacerations, or tending to patients suffering injuries as a result of accidents, trauma, or medical conditions necessitating immediate medical care) on an outpatient basis. Outpatient surgical establishments have specialized facilities, such as operating and recovery rooms, and specialized equipment, such as anesthetic or X-ray equipment.

**Hospitals.** Provide medical, diagnostic, and treatment services that include physician, nursing, and other health services to inpatients and the specialized accommodation services required by inpatients. Hospitals may also provide outpatient services as a secondary activity. Also provide inpatient health services, many of which can only be provided using the specialized facilities and equipment that form a significant and integral part of the production process.

**Junior Colleges.** Establishments primarily engaged in furnishing academic, or academic and technical, courses and granting associate degrees, certificates, or diplomas below the baccalaureate level. The requirement for admission to an associate or equivalent degree program is at least a high school diploma or equivalent general academic training. Instruction may be provided in diverse settings, such as the establishments or client's training facilities, educational institutions, the workplace, or the home, and through diverse means, such as correspondence, television, the Internet, or other electronic and distance-learning methods. The training provided by these establishments may include the use of simulators and simulation methods.

**Nursing and Residential Care Facilities.** Provide residential care combined with either nursing, supervisory, or other types of care as required by the residents. Facilities are a significant part of the production process and the care provided is a mix of health and social services with the health services being largely some level of nursing services.

**Putrescible (rotten) Waste.** Putrescible wastes are solid wastes which contain organic matter capable of being decomposed by microorganisms and of such character and proportion as to be capable of attracting or providing food for birds.

**Technical & Trade Schools.** Establishments primarily engaged in offering vocational and technical training in a variety of technical subjects and trades. The training often leads to job-specific certification. Instruction may be provided in diverse settings, such as the establishments or client's training facilities, educational institutions, the workplace, or the home, and through diverse means, such as correspondence, television, the Internet, or other electronic and distance-learning methods. The training provided by these establishments may include the use of simulators and simulation methods.

**Turbine-powered aircraft.** Aircraft in which the main propulsion force is supplied by a gas turbine which drives either a propeller or compressor. (May be either turbo prop or turbo jet.)

**Used by turbine powered aircraft.** An airport that has based turbine powered aircraft or one which sells turbine fuel.

#### **7.4.03 Airport Zones.**

In order to carry out the provisions of this Section, airport zones are established which include all the land within the Airport Height Notification Zone (Subzone A and Subzone B), Airport Runway Protection Zone, and Airport Noise Impact Zone as they apply to the airport. Such zones are shown on the Auburn-Opelika Robert G. Pitts Airport Zone Map, consisting of one sheet, prepared by City of Opelika, and dated, October 6, 2009. This map is attached to this Ordinance and made a part hereof. The map referred to in this Section is on file in the Planning Department.

These airport zones shall be superimposed over existing zoning districts and the special requirements of these airport zoning regulations shall apply in addition to the requirements of the district within which a specific property is located (See Section IV).

#### **7.4.04 Area of Jurisdiction.**

In order to protect the approaches of said airport, the jurisdiction of this Section of the ordinance is extended to all areas depicted on the Auburn-Opelika Robert G. Pitts Airport Map, including areas within the City of Opelika.

#### **7.4.05 Airport Overlay Zones.**

The City of Opelika hereby adopts three (3) airport overlay zones which are shown on the City zoning map. These zones are established to regulate development in proximity to the airport. The location of these overlay zones is hereby established by this section. Boundaries of these zones may be changed only by way of an amendment of the official zoning map, pursuant to this section of the zoning ordinance. All development applications for land within these overlay zones shall comply with the airport zoning regulations of this section. In addition, development within these airport overlay zones shall also comply with applicable underlying zoning district requirements as referenced in this zoning ordinance. The three (3) airport overlay zones are as follows:

- A. Airport Height Notification Zone (Subzone A and Subzone B);**
- B. Airport Runway Protection Zone; and**
- C. Airport Noise Impact Zone (½ of longest planned runway).**

Where an airport overlay zone overlays a portion of a property, only that portion within the zone shall be affected by the zone regulations. Furthermore, in relation to applying runway protection zone and noise impact zone requirements, use regulations shall apply to the structure or facilities constituting the use and shall generally apply to accessory open space, landscape and buffering, stormwater management, or driveway and parking uses.

#### **7.4.06 Airport Height Notification Zone and Regulation.**

##### **A. Establishment of zone.**

The airport height notification zone is hereby established as an overlay zone on the adopted City zoning map. This zone is established to regulate the height of structures and natural vegetation for areas in proximity to the public use airports located within the City of Opelika. The airport height notification zone, consists of two (2) subzones, is defined as:

- Subzone A.** The area surrounding each public use airport extending outward twenty thousand (20,000) feet from the ends and each side of all active runways.
- Subzone B.** The area outside of Subzone A.

##### **B. Airport height definition.**

For the purposes of determining building height in the height notification zone, height shall be measured in feet above ground level, rounded to the highest foot. The total structure height shall include anything mounted on top of the structure, such as antennas, obstruction lights, lightning rods, etc.

### **C. Height notification regulations.**

All applicants of development proposals for land within the height notification zone determined to be a potential airport obstruction shall forward a notice of proposed construction (form 7460) to the Federal Aviation Administration (FAA) to be reviewed for conformance with the obstructions standards detailed in Title 14, Code of Federal Regulations, Part 77 Subpart C. (14 CFR Part 77), as may be amended from time to time.

1. A proposed development shall be determined to be a "potential airport obstruction" if the proposed development would result in a structure or natural vegetation having a height greater than an imaginary surface extending outward and upward from the ends and sides of a public use airport active runway at a slope of one (1) foot vertical to one hundred (100) feet horizontal outward to twenty thousand (20,000) feet for Subzone A or two hundred (200) feet above ground level for Subzone B. Applicants of any development proposal determined by the City to result in a structure(s) that constitutes a "potential airport obstruction" shall be issued a notice of potential airport obstruction during the development proposal review process by the Planning Director or his designee.
  - a. No proposal for development will be approved for construction and no permit for construction will be issued for any proposal to construct any structure which is determined by the City to be a "potential airport obstruction" unless a city airport construction permit is granted.
2. Any proposed development which is not determined to be a "potential airport obstruction" is exempt from any airport height notification zone permitting regulations contained herein.
3. Airport construction permit procedures and criteria for approval. Any applicant affected by a notice of potential obstruction may apply to the Planning Director for an airport construction permit.
  - a. Procedures for obtaining an airport construction permit.
    - i. Applicants shall submit to the Planning Department a completed airport construction permit application form (as provided by the City) and a copy of the notice of proposed construction form submitted to the FAA for the project. Permit requests may be considered by the Planning Director concurrent with development plan approval consideration.
    - ii. Prior to permit requests being considered for approval, applicants shall submit to the Planning Department the final determination issued by the FAA based on its review of the applicant's notice of proposed construction submitted in accordance with 14 CFR Part 77.
  - b. Criteria for granting an airport construction permit.
    - i. Where the FAA has reviewed the proposed development and determined its construction would not exceed an obstruction standard of 14 CFR Part 77, the Planning Director shall grant an airport construction permit for the proposed development provided that a condition is attached to the permit approval to ensure that the approved structure(s) is marked and lighted prior to the issuance of a certificate of occupancy (C.O.) if so required by Chapter 14-60, in

accordance with the standards of Rules of the Department of Transportation and Federal Aviation Administration Advisory Circular 70/7460-1K, as amended.

- ii. Where the FAA has reviewed a proposed development and determined that the proposed development exceeds the obstruction standards of 14 CFR Part 77, no airport construction permit may be approved, and a City airport obstruction variance must be obtained by the applicant for the proposed development to proceed.
4. A permit shall not be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of these regulations or any amendments thereto or than it is when the application for a permit is made.

#### **7.4.07 Airport Runway Protection Zone and Regulations.**

##### **A. Zone establishment.**

There is hereby created and established as an overlay zone on the adopted City zoning map a runway protection zone for areas at each end of every active runway as may be amended from time to time. Within a runway protection zone, certain uses are restricted or prohibited to reduce incompatibilities with normal airport operations and danger to public health.

##### **B. Runway protection zone regulations.**

1. *Prohibited uses.* The following uses shall be prohibited within the runway protection zone:
  - a. Educational centers (including all types of primary and secondary schools, pre-schools, child care facilities).
  - b. Hospitals, freestanding emergency care centers, nursing/convalescent home facilities.
  - c. Assembly halls.
  - d. Fuel storage facilities (excludes storage tanks for flammable and combustible liquids, compressed gasses, or liquefied petroleum gas necessary for the operation of medical facilities)
2. *Permitted uses.* Any use which is not prohibited in a runway protection zone as determined in a. above is permitted within the runway protection zone, subject to compliance with applicable airport noise impact zone, airport height notification zone and zoning district regulations.

#### **7.4.08 Airport Noise Impact Zone and Regulations.**

##### **A. Zone establishment.**

There is hereby created and established as an overlay zone on the adopted City zoning map an airport noise impact zone for areas surrounding airport. The airport noise impact zone is an area in which special construction standards are recommended for new construction and alteration, moving and repair to minimize the impact of airport generated noise routinely produced by continuation of normal airport operations. The airport noise impact zone is defined as follows:

1. An area contiguous to the airport measuring one-half (½) the length of the longest planned runway on either side of and at the end of each runway centerline. For land use control purposes, this boundary shall be considered to be consistent with the sixty-five (65) to seventy (70) level day night (ldn) zone determined by an official Part 150 Noise Study or other recognized study, such as an Environmental Assessment, if a study is completed.

**B. Noise impact zone regulations.**

Provisions of this section shall apply to construction, alteration, moving, repair and use of any building or structure within the airport noise impact zone.

1. Applicants for building permits or permits granted by the Planning Department in the noise impact zone shall be provided information at the time of application regarding recommended amounts of noise level reduction (NLR) in the airport noise impact zone as established by this Ordinance as well as guidelines for how such noise reduction shall be achieved.

**7.4.09 Nonconforming Uses.**

**A. Regulations not Retroactive.**

These airport regulations shall not be construed to require the removal, lowering, or other changes or alterations of any structure not conforming to these regulations as of the effective date of this chapter or otherwise interfere with the continuance of a nonconforming use. Nonconforming vegetation is subject to removal per the provisions of § 7.4.

**B. Marking and Lighting.**

Notwithstanding the provisions of this Section, the owner of any existing nonconforming structure or tree is hereby required to install, operate, and maintain thereon of such markers and lights as shall be deemed necessary by the Airport, Federal Aviation Administration, or State of Alabama, to indicate to the operators of aircraft in the vicinity of the airport the presence of such obstructions in accordance with FAA requirements. Such markers and lights shall be installed, operated, and maintained at the owner's expense.

**C. Expansion of a Nonconforming Use.**

Any existing nonconforming use as described in these regulations shall not be expanded by altering, replanting or otherwise enlarging it so as to increase in any way its hazard within the airspace required for flight of aircraft in landing or taking-off or to increase the potential hazard to persons assembled within a structure so located and used.

**7.4.10 Permits.**

- A. An applicant seeking development approval in an area within the airport overlay zones shall provide the following information in addition to any other information required in the permit application:**

1. A map or drawing showing the location of the property in relation to the runway protection zone, height notification zone and noise impact zone. The City of Opelika Planning Department shall provide the applicant with the appropriate base maps on which to locate the property.
2. Ground elevation profiles, a site plan, both drawn to scale, including the location (X and Y coordinates) and total height of all existing and proposed structures, measured in feet above the mean sea level.
3. If a height variance is requested, the applicant will need to obtain a letter of support from the Airport.

#### **7.4.11 Enforcement.**

The enforcement of this Section shall be subject to the powers and duties specified under Section III of the zoning ordinance except as otherwise stated in this Section. The Planning Director and the Building Supervisor shall coordinate the enforcement of this Section with the Airport. It shall be the duty of the Airport to advise the Planning Director and the Building Supervisor of any violations of this Section.

Any person violating any provision of this Ordinance, upon conviction, shall be punished by a fine of not more than \$500, and by imprisonment in the City jail for not more than six (6) months, or by both such fine and imprisonment and also costs of court for each offense. Each day such violation continues shall constitute a separate offense (Section 3.4 Penalties).

Applications for permits and variances shall be made to the City of Opelika Planning Department upon a form published for this purpose. Applications submitted to the Planning Department shall be promptly considered and approved or denied. Applications for variances by the Board of Zoning Adjustment shall be transmitted by the Planning Director.

#### **7.4.12 Special Requirements.**

**A. Notwithstanding any other provision of this Ordinance,** no use within the City of Opelika shall interfere with any operation of an airborne aircraft using a public use airport. The following special requirements shall apply to proposed developments or land use practices that attract or sustain hazardous wildlife populations on or near airports that can significantly increase the potential for wildlife-aircraft collisions.

1. The distance between the Airport's aircraft movement areas, loading ramps or aircraft parking areas and the wildlife attractant should be a distance of 10,000 feet. A distance of 5 statute miles is recommended, if the wildlife attractant may cause hazardous wildlife movement into or across the approach or departure airspace. For additional information please consult with the U.S. Department of Transportation Federal Aviation Administration for standard practices for locating certain land uses having the potential to attract hazardous wildlife to or in the vicinity of public use airports.

2. Sludge disposal, effluent spraying, compost activities and any other waste disposal activities should normally not be allowed within the property limits of the Airport.
3. Disposal sites for putrescible material, i.e. garbage dumps, landfills, and other similarly licensed or titled facilities, are to be considered incompatible when located within 10,000 feet of the Airport's runways.
4. Disposal sites for nonputrescible material, e.g. construction demolition waste, automobile junk yards, kitchen appliances, and incinerator ash residue, are normally considered incompatible to within 10,000 feet of a runway used by turbine powered aircraft. However, depending upon the specific proposal, the results of a site investigation, and the proposed location relative to the runway approach/departure paths, certain types of restricted nonputrescible disposal operations may be found non-objectionable off airport, provided assurances are obtained from the proponent, and included in the licensing process, that should the site cause an increase in bird activity which might be hazardous to safe aircraft operations, action will be taken to mitigate the hazard or close the site.
5. Proposed developments which produce lights or illumination, smoke, glare or other visual hazards, or produce electronic interference with airport/airplane navigation signals are subject to the standards specified in the FAA Procedures Manual 7400-2C as may be applied and enforced by the state and/or federal governments.
6. Vegetation in the airport north-south approach zone or the airport northwest-southeast approach zone must be removed if said vegetation penetrates the approach surfaces.

#### **7.4.13 Standards for Variances Applicable to the Airport.**

Any person desiring to erect or increase the height of any structure, permit the growth of any tree or use property not in accordance with the regulations of this Section may apply to the Opelika Board of Zoning Adjustment for a variance from such regulations. Applications for variances shall follow the same procedure for other variances (See Section 4.1 Procedures). The application for a variance shall be accompanied by a determination from the Federal Aviation Administration (FAA) and the Airport as to the effect of the requested variance on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

#### **A. Criteria for granting an airport obstruction variance.**

Where the FAA has reviewed the proposed development and determined its construction would exceed an obstruction standard of 14 CFR Part 77, the board of adjustment may grant an airport obstruction variance for a proposed development. Such a variance may be granted if the board determines that:

1. The literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and where the relief granted would not be contrary to the public interest (i.e. the development can be accommodated in navigable airspace without adverse impact to surrounding environs).
2. Granting the variance will not create a hazard to air navigation.
3. Granting the variance will do substantial justice.
4. The variance will be in accordance with the spirit of these regulations.

**ALL VARIANCES SHALL BE SUBJECT TO CONDITIONS AND TERMS AS RECOMMENDED BY THE FAA.**

**B. The following requirements must also be met for an airport obstruction variance to be approved:**

1. A condition must be attached to the variance approval to require that the approved structure(s) is marked and lighted to indicate to aircraft pilots the presence of an obstruction in accordance with the standards of FAA Advisory Circular Number 70/7460-1K, as it may be amended. Where such marking or lighting is required, such requirement shall be satisfied prior to the issuance of a Certificate of Occupancy (C.O.) for the affected structure.
2. The FAA must determine the aeronautical evaluations submitted are valid.
3. Consideration shall be given to:
  - a. The nature of the terrain and height (height per § 512.02) of existing structures.
  - b. Public and private interests and investments.
  - c. The character of flying operations and planned development of airports.
  - d. FAA designated federal airways.
  - e. Whether construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport.
  - f. Technological advances.
  - g. The safety of persons on the ground and in the air.
  - h. Land use density.
  - i. The safe and efficient use of navigable airspace.
  - j. The cumulative effects on navigable airspace of all existing structures or proposed structures identified in the City of Opelika.
  - k. FAA determinations and results of aeronautical studies conducted by or for the FAA.
  - l. Comments and recommendations from the Airport.
  - m. Other testimony and findings of aviation operations and safety experts.

**7.4.14 Obstruction Marking and Lighting.**

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of these regulations and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit at the owners expense, to install, operate and maintain hereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.<sup>1</sup>

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<sup>1</sup> Date of Amendment: December 15, 2009 Ordinance No. 124-09

## SECTION 7.5 FLOOD PLAIN DEVELOPMENT<sup>2</sup>

Ordinance No. 106-11 adopted by the Opelika City Council on April 5, 2011, known as the City of Opelika Flood Damage Prevention Ordinance shall overlay and supplement the regulation of the City of Opelika Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of Ordinance No. 106-11 differs or is in conflict with any provision of the Zoning Ordinance, the provision imposing the greater restriction or more stringent standard shall be controlling.

The regulations in Ordinance No. 106-11 shall apply to all lands identified as special flood hazard area by Federal Emergency Management Agency in its **Flood Insurance Study (“FIS”)** dated January 27, 2009, with accompanying maps and other supporting data and any revision thereto. For those land areas acquired by the City through annexation, the current effective FIS and data for Lee County are adopted by reference. Areas of special flood hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by government agencies or private parties but not yet incorporated in a FIS. These special flood hazard areas (sometimes referred to and designated as “Flood Plain Overlay Districts” in the Zoning Ordinance) are declared to be part of the Zoning Ordinance and are hereby incorporated by reference. A Development Permit shall be required in accordance with the provisions of Ordinance No. 106-11 PRIOR to the commencement of any Development activities. No structure or land shall hereafter be located, extended, converted or altered without **full compliance** with the terms of Ordinance No. 106-11 and other applicable regulations.

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<sup>2</sup> Date of Amendment June 21, 2011

Ordinance No. 108-11

## SECTION 7.6 GATEWAY CORRIDOR OVERLAY DISTRICT<sup>34</sup>

This section authorizes the establishment of Gateway Corridor Overlay Districts. The intent of this section is to specify those areas that serve as a primary means of entry into Opelika and name those areas the Gateway Corridor Overlay District. The district is designated to be an overlay appended to residential, commercial, industrial or any other districts. The Gateway Overlay District is similar to airport hazard areas (Section 7.4) and the Flood Plain Overlay District (see Section 7.5) in that additional regulation will apply and supersede the underlying district regulations. In other words, a Gateway Overlay District can be placed on top of any of the City's existing zoning districts creating an overlap in the zoning along a specified length of roadway desired to be regulated. Any proposed development, then, would have to meet the zoning requirements of both the existing zone and the Gateway Overlay district. The Gateway Corridor Overlay District may include roadway corridors and their adjacent development located in several use districts. Uses typically include retail, wholesale, motel, recreation, office, fast-food establishments, and similar uses. This district is characterized by special design controls enforced to prevent incompatible uses and to maintain an attractive "gateway" or entrance into Opelika. The design of these corridors and their major elements shall reflect the identity and image of the entire City of Opelika.

The Gateway Corridor Overlay District is designated as shown on the official City of Opelika Zoning Map. Hereafter, the following road segments shall be referred to as the "Gateway Corridors" and designated as such on the zoning map:

### **1. Lafayette Parkway (Highway 431) – from Cusseta Road to Lee Road 172 – north area**

The point of beginning herein described is at the intersection of Lafayette Parkway (Highway 431) and Cusseta Road: then run in a northwesterly direction on Lafayette Parkway 12,030 feet to the Lee County-Chambers County boundary line. The boundary depth of the Gateway Corridor District along Lafayette Parkway shall be 600 feet measured from the centerline of Lafayette Parkway.

### **2. Lake Condry Road – from Lafayette Parkway to Andrews Road**

The point of beginning herein described is at the intersection of Lake Condry Road and Lafayette Parkway (Highway 431): then run in an easterly direction on Lake Condry Road 1,800 feet to the intersection of Lake Condry Road and Andrews Road. The boundary depth of the Gateway Corridor District along Lake Condry Road shall be 600 feet measured from the centerline of Lake Condry Road.

### **3. Andrews Road - from Lake Condry Road to West Point Parkway (Highway 29) – northeast area**

The point of beginning herein described is at the intersection of Lake Condry Road and Andrews Road: then run in a northeasterly direction on Andrews Road 21,038 feet to Interchange 66 on Interstate 85; then run in a southeasterly direction on Andrews Road 6,126 feet to the intersection of Andrews Road and West Point Parkway (Highway 29). The boundary depth of the Gateway

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<sup>3</sup> Date of Amendment: December 6, 1995      Ordinance No. 138-95

<sup>4</sup> Date of Amendment: July 2, 2014              Ordinance No. 118-14

Corridor District along Andrews Road shall be 600 feet measured from the centerline of Andrews Road.

**4. West Point Parkway (Highway 29) - From North Uniroyal Road to Andrews Road – northeast area**

The point of beginning herein described is at the intersection of North Uniroyal Road & West Point Parkway: then run in a northeasterly direction on West Point Parkway (Highway 29) 12,356 feet to the intersection of Andrews Road and West Point Parkway. The boundary depth of the Gateway Corridor District along West Point Parkway shall be 600 feet measured from the centerline of West Point Parkway.

**5. Columbus Parkway (Highway 280 East) – from the 2700 block of Columbus Parkway to Lee Road 158 - east area**

Commence at the intersection of North Uniroyal Road and Columbus Parkway run in an easterly direction on Columbus Parkway 5,206 feet to the Point of Beginning: then run in an easterly direction along Columbus Parkway 11,703 feet to a point. The boundary depth of the Gateway Corridor District along Columbus Parkway shall be 600 feet measured from the centerline of Columbus Parkway.

**6. Society Hill Road – from Gateway Drive to the Opelika City Limits**

The point of beginning herein described is at the intersection Society Hill Road and Gateway Drive: then run in a southerly direction on Society Hill Road 1,580 feet to the Opelika City Limits. The boundary depth of the Gateway Corridor District along Society Hill Road shall be 600 feet measured from the centerline of Society Hill Road.

**7. Frederick Road - from Gateway Drive to the 2500 block of Frederick Road - south area**

The point of beginning herein described is at the intersection Gateway Drive and Frederick Road: then run in a westerly direction on Frederick Road 2,329 feet to the 2500 block of Fredrick Road. The boundary depth of the Gateway Corridor District along Frederick Road shall be 600 feet measured from the centerline of Frederick Road.

**8. Gateway Drive – from Frederick Road to Interstate Drive – south area**

The point of beginning herein described is at the intersection Gateway Drive and Frederick Road: then run in a southerly direction on Gateway Drive 1,740 feet to the intersection of Interstate Drive and Gateway Drive. The boundary depth of the Gateway Corridor District along Gateway Drive shall be 600 feet measured from the centerline of Gateway Drive.

**9. Highway 280 West – from west of Lee Road 072 to Veterans Parkway**

Commence at the intersection of Highway 280 West and Lee Road 072 run in a westerly direction on Highway 280 West 1,589 feet to the Point of Beginning: then run in an easterly direction along Highway 280 West 15,676 feet to the intersection of Highway 280 West and Veterans Parkway. The boundary depth of the Gateway Corridor District along Highway 280 West shall be 600 feet measured from the centerline of Highway 280 West.

**10. Second Avenue—from intersection of East Thomason Circle and Pepperell Parkway to intersection of Plum Avenue and Second Avenue. The boundaries of Second Avenue are further described as follows:**

Commencing at the intersection of East Thomason Circle and Pepperell Parkway thence run east along the north margin of Pepperell Parkway for 1,103 feet, more or less, to the POINT of BEGINNING; thence from the point of beginning run in a northerly direction for 318 feet, more or less, to a point; thence run in a easterly direction 1,286 feet, more or less, to a point; thence run in a easterly direction 120 feet, more or less, to a point which is the west margin of Pleasant Drive; thence run in a northeasterly direction 131 feet, more or less, to the east margin of Pleasant Drive; thence run in a easterly direction 109 feet, more or less, to a point; thence run in a southeasterly direction 169 feet, more or less, to the centerline of 3<sup>rd</sup> Avenue; thence run in a northeasterly direction 2,579 to the centerline of Simmons Street; thence run in a northeasterly direction 2,505 feet, more or less, to a point; thence run in a northwesterly direction 57 feet, more or less, to a point; thence run in a northeasterly direction 201 feet, more less, which is the west margin of North 10 Street; thence run in a southeasterly direction 68 feet, more or less, to the east margin of North 10<sup>th</sup> Street; thence run in a northeasterly direction 399 feet, more or less, to the west margin of No 9<sup>th</sup> Street; thence run in a southeasterly direction 64 feet, more or less, to the east margin on North 9<sup>th</sup> Street; thence run in a northeasterly direction 868 feet, more or less, to the west margin of North 7<sup>th</sup> Street; thence run in a northwesterly direction 65 feet to the east margin of North 7<sup>th</sup> Street; thence run in a northeasterly direction 97 feet, more or less, to a point; thence run in a southeasterly direction 26 feet, more or less, to a point; thence run in a northeasterly direction 1,736 feet, more or less, to the east margin of North 3<sup>rd</sup> Street; thence run in a northwesterly direction 240 feet, more or less, to the southeast intersection of North 3<sup>rd</sup> Street & 3<sup>rd</sup> Avenue; thence run in a northeasterly direction along the south margin of 3<sup>rd</sup> Avenue for 625 feet, more or less, to a point; thence run in a southeasterly direction 545 feet, more or less, to a point; thence run in a southerly direction 126 feet, more or less, to the north margin of Jeter Avenue; thence run in a southwesterly direction 54 feet, more or less, to the south margin of Jeter Avenue; thence run in a southerly direction 150 feet, more or less, to a point; thence run in a easterly direction 100 feet, more or less, to a point; thence run in a southerly direction 39 feet, more or less, to a point; thence run in a easterly direction 141 feet, more or less, to a point; thence run in a southerly direction 268 feet to the north margin of Brannon Avenue; thence run in a westerly direction along the north margin of Brannon Avenue for 448 feet, more or less to the northeast intersection of Brannon Avenue & South Railroad Avenue; thence run in a southwesterly direction for 248 feet, more or less, to the north margin of Edge Court; thence run in a northwesterly direction for 71 feet, more or less, to a point; thence run in a southwesterly direction 4,932 feet, more or less, to the west margin of North 14<sup>th</sup> Street; thence run in a southeasterly direction 222 feet, more or less, to the north margin of First Avenue; thence run in a southwesterly direction along the north margin of First Avenue for 3,147 feet, more or less, to the west margin of 17<sup>th</sup> Street; thence run in a northwesterly direction along the west margin of 17<sup>th</sup> Street to the south margin of 2<sup>nd</sup> Avenue; thence run in a southwesterly direction 855 feet, more or less, to the west margin of 18<sup>th</sup> Street; thence run in westerly direction along the south margin of 2nd Avenue for 1,224 feet, more or less, to the dead end of the 2<sup>nd</sup> Avenue right-of-way; thence run in a southerly direction 521 feet, more or less, to a point; thence run in a northerly direction 1,045 feet, more or less, to the point of beginning.

The boundary depth of the Gateway Corridor Overlay District shall be 600 feet measured from the street centerline of the designated Corridor except for a portion of Second Avenue. The boundary depth for the Second Avenue Gateway Corridor is as described above. If any portion of a lot is located within the Gateway Corridor Overlay District then the entire lot is considered within the district.

Except as provided herein (for example, above description of boundaries of Second Avenue Corridor) the Gateway Corridor Overlay District regulations shall apply to any land parcel within the corporate limits of the municipality when a portion of said parcel falls within 600 feet of the centerline of the Gateway Corridor.

The Gateway Corridors are subject to the “GC” district regulations in the matrix table in Section 7.3A. The Gateway Corridor Overlay District is supplemental to the underlying zoning district classifications. The Gateway Corridor Overlay District shall be imposed in addition to said underlying zoning regulations. In any case where the standards and requirements of the Gateway Corridor Overlay District conflict with those of the underlying zoning district, the standards and requirements of the Gateway Corridor Overlay District shall govern.

The Gateway Corridor Overlay District regulations shall not apply to platted subdivision lots for new single family detached dwellings and existing single family detached dwellings.

The Board of Zoning Adjustment may grant exceptions from the requirements of the regulations when due to the location, size and shape of the property, development of the parcel under its current zoning and in conformity with the requirements of the Gateway Corridor Overlay District would present a substantial and unique hardship.

Except as provided herein, the Overlay District regulations shall apply to any land parcel within the municipality when a portion of said parcel falls within 600 feet of the Gateway Corridors.

References in the Zoning Ordinance to Gateway Corridor 1 District (GC-1) and Gateway Corridor 2 District (GC-2) are deleted, repealed and eliminated and replaced by the Gateway Corridor Overlay District (GC). Whenever in the Zoning Ordinance reference is made to Gateway Corridor 1 District (GC-1) and/or Gateway Corridor 2 District (GC-2), or any like form, the same shall be construed to refer to the Gateway Corridor District (GC).

## **A. General Provisions.**

### **1. Establishing the Gateway Corridor Overlay Districts.**

Based on the definition and intent of these districts, Gateway Corridor Overlay Districts shall be recommendation by the Planning Commission and designated by the City Council. Once designated, these areas shall be identified on the Zoning Map of Opelika.

### **2. Applicability.**

All rules, regulations, conditions, and requirements set forth in this Section are applicable as follows:

- a. Any new subdivision, development, or construction in a GC-1 and GC-2 Overlay zoning district consisting of non-residential development or the development or more than two (2) residential dwelling units.
- b. An alteration to an existing non-residential or multi-family building(s), development(s), or construction which increases or decreases the amount of gross floor area of a structure or building on a lot by more than fifty (50%) percent.

## **B. Administration.**

### **1. Preparation conference.**

Prior to subdividing, developing or constructing in the GC-1 or GC-2, the owner or his representative shall meet with the City Planner to review the feasibility of the proposed project in terms of its consistency with the Comprehensive Plan, surrounding uses and zoning, and the adequacy of existing or public planned facilities. The owner shall provide the following information for consideration at this conference:

- a. A sketch plan showing the location and acreage of the project and the proposed layout of the streets and uses in relation to existing natural and man-made conditions. This plan may be a free-hand sketch made on a copy of a topographic map.
- b. Proposed uses.
- c. Identification of proposed method of water supply and sewage disposal.
- d. Following the preapplication conference, and after the City Planner has determined that the proposed use would be considered a conditional use, the owner may file a conditional use application (see Section 8.17 Conditional Uses) and submit supporting materials as outlined in subsection 2. Below. Applications all-supporting materials must be submitted at least fifteen (15) days prior to the Planning Commission meeting at which they are to be heard.

### **2. Development plan and written report.**

A development plan and written report of the project will need to be submitted to the Planning Staff and will only be accepted after a preapplication conference. This plan and report will be reviewed by the Planning Staff, other relevant City Staff (i.e. City Engineer, Public Works Director, Building Inspector, etc.) and by the Planning Commission for final action. An approved development plan shall constitute a binding<sup>5</sup>

#### **The following information shall be submitted for approval:**

- a. The legal description of the parcel(s) for which the approval is sought and a survey (certified by a licensed surveyor) which includes the dimensions of the existing property and any improvements.
- b. A development plan shall be of a standard size and drawn by an architect, landscape architect, engineer or licensed surveyor and include the following information:
  1. Project name;
  2. Project owner;
  3. Date, standard scale (not smaller than one hundred (100) feet to the inch), dimensions and north arrow;
  4. Vicinity map;

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<sup>5</sup>Any significant deviation from the approved development plan shall be reviewed by the Planning Commission. The approved development plan constitutes a binding site plan unless specifically stated in the master development plan or report to the contrary for any item or items.

5. Owner and use of adjacent streets;
  6. Total acreage or square footage;
  7. Size, arrangement and orientation of all buildings proposed and their proposed uses;
  8. All other proposed uses not contained in a building, their location, and acreage in each;
  9. Location, width and names of existing or previously platted streets, railroads;
  10. Location, grades, and sizes of utilities (water, manholes, sanitary sewer, storm drainage, and power), and the dimension and location of easements;
  11. Location of major surface water drainage improvements;
  12. Location, size and dimensions of all previous or proposed vehicular drives, entrances, exits, traffic-circulation patterns, and acceleration and deceleration lanes;
  13. Location, size, arrangement, and capacity of all areas to be used for off-street parking and off-street loading, specifying dimensions of parking spaces and delineating loading spaces and designated handicapped parking spaces;
  14. Landscape plan (see Section X) including designated open space, and all proposed buffers and/or screening, both peripheral and internal;
  15. Lighting plan identifying all lighting fixtures to be incorporated on-site and including a certified computer analysis by an approved lighting manufacturer indicating that direct or indirect illumination from the source of light shall not exceed one foot-candle measured at any lot line. All lighting shall be in accordance with Illuminating Engineering Society (IES) guidelines.
  16. Location, size, height, composition material, illumination, and orientation of all signs;
  17. Location of dumpsters/roll-carts and any proposed enclosure for commercial or industrial projects and for apartments or multiplex residential projects.
  18. Location, height, configuration, and material of all walls, fences, or other structures proposed;
  19. Topography at five foot (5') contour intervals or less, including floodplain boundary;
  20. Any other data requested by the City Planner or Planning Commission considered necessary to an understanding and evaluation of the project.
- c. A written report describing the intent and general character of the proposed development. This report shall specifically include:
1. A general description of the project;
  2. Identification of the proposed method of water supply, sewage disposal, solid waste disposal and calculation of demand for such services;
  3. Identification of intended method of surface water drainage;
  4. Calculation of average daily traffic and peak hour(s) vehicle trip ends to be generated by the project with estimate of preferred route split;
  5. Any proposed standards for development, including restrictions on use, density, yard requirements and protective covenants;
  6. Any plans for the protective of abutting properties;
  7. Identification of any proposed dedication of land for public use;

8. Expression of intent with regards to the provisions of open space, courts, walks, and other common areas and their maintenance;
9. Location and specifications for all outdoor lighting of the proposed development;
10. Tables showing the acreage in the overall project and in each use, as well as density calculations for residential areas;
11. A project completion schedule by phase;
12. Any exceptions, variations or waivers from the requirements of the Zoning Ordinance that are being requested (i.e., the minimum lot area, width, frontage and yard requirements and maximum height requirements otherwise applying may be requested to be waived or modified for the purpose of promoting a more unified, reasonable, or appropriate site plan);
13. Any other data requested by the City Planner or Planning Commission considered necessary to an understanding and evaluation of the project.

**3. Maintenance of Open Space.**

Whenever group of common open space is provided, the Planning Commission or the City Council, as appropriate, may require that an association of owners or tenants be created for the purpose of maintaining such open space. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to maintain said open space for the purposes intended. The period of existence of such association shall be not less than twenty (20) years, and it shall continue thereafter and until a majority vote of the members shall terminate it.

**4. Performance Bonds.**

The City of Opelika may, as a condition of approval, require a cash bond or surety bond for completion of all or specified parts of the development and a letter of credit. The bond shall be in a sum of one hundred (100%) percent of the estimated cost of the work and conditioned upon the faithful performance of the work specified within the time specified.

**5. Noncompliance.**

The violation of any provision of the approved development plan shall constitute a violation of the Ordinance.

## **SECTION 7.7 DOWNTOWN RESIDENTIAL LIVING<sup>6</sup>**

### **A. Purpose.**

It is the purpose of this section to establish regulations to accommodate commercial and residential uses in the downtown area. This section contains criteria designed or intended to:

- a) Contribute to the economic vitality of the downtown area by permitting housing with conditional use approval in the C-1 zoning.
- b) Provide better security, preserve property values, and preserve the character of the downtown area by ensuring that housing is permitted in such a manner that will not alter the character of the downtown area.
- c) Promote the maintenance and preservation of buildings in the downtown area.
- d) Meet housing needs especially for those working downtown.

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<sup>6</sup> Date of Amendment: December 3, 1997    Ordinance No. 130-97    Add Section 7.7

## **B. Conditional Use Approval.**

Conditional use approval is required for residential dwellings in the C-1 zoning district. During site plan review, the Planning Commission may impose reasonable restrictions and condition on approval of proposed residential housing developments to maintain the character of the downtown business district. The developments to maintain the character of the downtown business district. The Planning Commission may vary or wave requirements if circumstances of a particular proposal so warrant. The Planning Commission shall use the following criteria in determining whether to grant conditional use approval:

1. The proposed residential use shall not decrease the value of adjoining properties.
2. The proposed residential use shall not inhibit the economic growth or development of the downtown area.
3. The proposed residential use at the proposed location shall not endanger the public health or safety, or create a nuisance. The proposed use shall promote and preserve decent, safe, and sanitary housing in the downtown area.
4. The proposed residential use shall not be approved if the combinations of residential and commercial uses are incompatible. Pertinent factors to be considered in evaluating any application are noise, smell, hours of commercial operation, and the impact of the proposed development on pedestrian and vehicular traffic.
5. The proposed residential use shall not be approved if the Planning Commission determines parking is adequate or on-street parking by the occupants and their guests will adversely affect nearby businesses. Parking for boats, campers, or trailers is prohibited in the C-1 district.
6. During site plan review and prior to the issuance of the conditional use permit, the Planning Commission may request repairs of any exterior surface or architecture which is deteriorated, decayed, or damaged. Routine maintenance or repairs of exterior surfaces or architecture may be required in subsequent years, if necessary, to sustain the existing form of the building in design, material, and outer appearance. The Historic Commission shall monitor the conditions of property and shall initiate such appropriate action of proceeding as is necessary to prevent deterioration in accordance with the provisions of Section VI, VII, and VIII of the Historic Ordinance.

## **C. Development Standards.**

Dwelling units may be of the efficiency, studio, and one (1) bedroom or two (2) bedroom types. Each dwelling unit shall have its own independent kitchen, bathroom(s), and bedroom(s). In cases where the Planning Commission deems it necessary, it shall determine which rooms are designated as bedroom(s), kitchen, entrance ways, etc.

Buildings located in the C-1 zoning district. Minimum floor area requirements for commercial uses on the first floor (street level):

A minimum floor area of forty percent (40%) of buildings on the first floor shall be reserved for commercial uses. The minimum forty percent (40%) floor area shall be located in the front portion of a building facing the primary street and front entrance into the building. The rear

portion of the first floor may be used as a residence. The resident occupying the rear portion of the building shall be limited to the property owner or the business owner of the said forty percent (40%) of the front portion of the building. It is prohibited for any other type of household or family unit to occupy the rear portion of buildings. It is prohibited for a property owner to rent the entire first floor area of a building as a residence. A maximum width of six (6) feet of the front façade may be used as a private entryway to access the rear portion of the building used for residential uses. Conditional use approval is required. A floor plan drawn to scale shall be submitted designating at least forty percent (40%) of the front portion of the building as reserved for commercial uses.

Minimum requirements for commercial or residential uses on the second floor or higher in the C-1 zoning district:

Residential dwelling units may occupy the second floor or higher of nonresidential buildings. The second floor or higher areas shall be designated nonresidential or residential. No mixed uses are allowed on the second floor or higher floors of nonresidential buildings in C-1 zoning districts. If the second floor or higher is designated residential the property owner is not limited to the type of households occupying the second floor or higher. Minimum floor area per residential dwelling on the second floor shall be four hundred (400) square feet.

Single-Purpose Residential: No building in a C-1 zone will be used as a single purpose residential use.

#### **D. Design Guidelines.**

1. Design plans for the structure shall be prepared and sealed by a registered architect or professional engineer and shall comply with all zoning requirements, the building code, and other applicable codes and regulations.
2. Prior to issuance of the conditional use permit, the applicant shall file copies of the design plans with the Building Official and the Fire Protection Official. No certificate of occupancy shall be issued until the premises in question have been inspected and found by the Building Official and Fire Protection Officer to comply with the requirements of this ordinance.<sup>7</sup>

### **SECTION 7.7 (a) VILLAGE RESIDENTIAL DISTRICT<sup>8</sup>**

#### **A. Purpose.**

This district is intended to accommodate, protect, rehabilitate and maintain specific residential areas of the City traditionally known as “mill villages,” but may also be applied to other similar neighborhoods, whether existing or proposed. Recognition of these areas serves as a positive force in efforts to preserve the character of these areas and to help meet affordable housing needs within the City.

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<sup>7</sup> Date of Amendment: June 19, 2007

Ordinance No. 108-07

<sup>8</sup> Date of Amendment June 16, 1998

Ordinance No. 111-98

## B. Permitted Uses.

### 1. Uses Which Are Permitted by Right:

- Single Family Homes
- Accessory Structures (garage, carport, storage building, gazebo, swimming pool, satellite dish, residential workshop, non-commercial greenhouse)
- Home Occupations, in accordance with the standards of Section 8.14.

### 2. Conditional Uses:

- Places of Worship, with setbacks conforming to VR-1 (larger lot) standards
- Public and Private Parks and Open Space Areas

## C. Dimensional Requirements for Larger and Smaller Lots.

Village Residential Districts may be comprised of distinct areas with larger and smaller lots. Areas set aside for larger lots shall be labeled VR-1 on the zoning map. Areas set aside for smaller lots shall be labeled VR-2 on the zoning map. Village Residential lots on opposite sides of the same street shall be of the same lot type. Dimensional standards for each lot type are as follows:

	<i>VR-1 (Larger Lots)</i>	<i>VR-2 (Smaller Lots)</i>
Minimum Lot Size	9,000 sf	7,500 sf.
Minimum Lot Width	75 ft.	65 ft.
Minimum Front Yard Setback*	20 ft.	12 ft.
Minimum Side Yard Setback	15 ft.	10 ft.
Minimum Rear Yard Setback	35 ft.	35 ft.
Maximum Block Length	800 ft.	500 ft.

\*All principal structures shall be set back a distance equal to the average setback of typical, well-related principal structures on the same side of a street and block face. Where there are no such existing buildings, all new structures shall conform to a uniform front yard setback no less than the minimum noted in the table above.

## D. Development Standards for Principal Structures.

### 1. Building Height.

No principal structure shall be taller than twenty-five (25) feet to the top of the highest ridge.

### 2. Roofs.

All principal structures shall have a roof pitch which matches the prevailing roof pitch of other typical, well related principal structures on the same side of a street and block face (i.e. structures located in the Pepperell Mill Village shall have a seven/twelve (7/12) roof pitch). Principal roofs shall be of gabled and /or hipped design.

### 3. Front Porches.

All principal residential structures shall have a front porch, no less than seven (7) feet in depth, front to back, extending across no less than one half (½) the front face of the structure.

## **E. Development Standards for Accessory Structures.**

### **1. Height of Structure**

Accessory structures shall not be taller than the principal structure, or twenty-five (25) feet, whichever is less.

### **2. Number and Square Footage of Accessory Structures.**

Any one (1) lot may have up to three (3) accessory structures (i.e. garage, carport, storage building, etc.), not including swimming pools. The sum total square footage of all accessory structures, not including swimming pools, shall not exceed fifty percent (50%) of the heated square footage of the principal structure.

### **3. Location of Accessory Structures.**

Accessory structures shall not be located in a required front yard. Accessory structures shall be located so as to allow for routine maintenance to all sides of the structure without having to tread upon adjoining properties. A minimum setback of three (3) feet shall be required from all property lines. Location and setback requirements for swimming pools shall be as specified in Section 8.9.

## **F. Fences.**

Fences of up to four (4) feet in height may be placed in any front yard. Fences of up to ten (10) feet in height may be placed in any side or rear yard, but shall not extend forward of the front face of the principal structure.

## **G. Sidewalks.**

At least one (1) side of each street shall have a sidewalk of not less than four (4) feet in width. The sidewalk shall be separated from the back of the curb by a grassed median of not less than four (4) feet in width.

## **H. Community Park Required.**

A community park shall be provided for the use of residents within the Village Residential District. The park shall have the following characteristics:

It shall be centrally located for ease of use and access by neighborhood residents, and shall be useable for recreation purposes or provide visual, aesthetic or environmental amenities.

It shall not be occupied by street right-of-ways, drives, parking areas or structures other than recreational structures.

It shall consist of a single, contiguous parcel of not less than six (6%) percent of the combined area of all Village Residential Lots in the development, or seven hundred fifty (750) square feet per platted lot, whichever is greater.

Land within a floodway or floodway fringe zone may be used to provide not more than fifty (50%) percent of the park area required.

Any segment or area of the park less than eighty (80) feet in width shall not be credited or calculated toward the required park area.

Required buffer areas shall not be included as part of the required park area.

Park space shall be provided within each phase of development in sufficient amounts to serve the expected number of dwelling units for that phase.

## **I. Conflicts with Other Provisions of the Zoning Ordinance.**

Where specific standards for development in this district are provided, they shall supersede the general provisions of the zoning ordinance for the same subject matter.

## **SECTION 7.8 VILLAGE COMMERCIAL DISTRICT<sup>9</sup>**

### **A. Purpose.**

This district is intended to accommodate low intensity offices, clinics, professional services and limited retail uses within converted single-family detached structures, or within new structures, which are compatible in mass, scale and design with nearby single-family structures. This district is often located on the periphery of established residential areas, along major streets. It may also be located as part of a planned neighborhood focal point, providing services to meet the needs of nearby residents without disrupting the character and peace of the neighborhood. This district may also serve as a transitional land use between residential districts and commercial districts of higher intensity. The district is established to provide appropriate locations for small businesses and offices, the size and operating characteristics of which require limited parking, customarily have operating hours compatible with a residential area, and which generate limited traffic, lighting, noise, and trash levels.

### **B. Permitted Uses.**

#### **1. Uses Which Are Permitted by Right:**

- Single Family Residences
- Accessory Structures (garage, carport, storage building, gazebo, swimming pool, satellite dish, residential workshop, non-commercial greenhouse).
- Home Occupations, in accordance with the standards of Section 8.14.
- Accountants and Bookkeepers
- Art Galleries
- Attorneys
- Day Care Facility, Adult or Child
- Antique Stores
- Architect/Engineering Offices

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<sup>9</sup> Date of Amendment June 16, 1998

Ordinance No. 111-98

- Barber Shops
  - Beauty Shops
  - Bicycle Shops
  - Book Stores, except adult
  - Dentist's Offices
  - Doctor's Offices
  - Drapery/Upholstery Shops
  - Dry Cleaning, without drive-through
  - Fabric and Notions Shops
  - Frame Shops
  - Florists
  - Government Offices
  - Greeting Card, Gift, and Stationery Stores
  - Insurance Offices
  - Libraries
  - Medical Research Laboratories
  - Museums
  - Offices, General, Professional
  - Pet Grooming Establishments
  - Photographic Studios
  - Places of Worship
  - Real Estate Offices
  - Shoe Repair Shops
  - Stock Brokers
  - Tailor/Dress Makers
  - Veterinary Clinics, Outpatient (no outdoor runs, no extended stay of animals)
2. **Conditional Uses:**
- Credit Unions, Savings and Loan Associations, and Other Limited Membership Financial Institutions, except check cashing services, with or without drive through window
  - U.S. Post Offices
  - Quality Restaurants - Low Traffic Volume/Low Turnover [See Institute of Transportation Engineers (ITE) definition]
3. **The following uses are Not Allowed:**
- Automobile Related Businesses (auto maintenance, auto repair, etc.)
  - Automobile Sales and Service
  - Automobile Service Stations
  - Billboards and Portable Signs
  - Building Supplies/Contractors Yards
  - Car Washes
  - Check Cashing Services
  - Convenience Stores, with or without Gasoline Sales
  - Drive through Businesses
  - Restaurants - High Traffic Volume/High Turn Over, (Fast Food, Take Out, Delivery)
  - Liquor/Package Stores

- Mini-Storage Warehouses
- Pawn Shops
- Supermarkets
- Video Rental Stores

**C. Land Uses Which Generate Heavy Traffic Volumes Are Prohibited.**

Any land use which has an Average Trip Rate of more than one hundred (100) trips per weekday per thousand (1000) square feet of gross floor area as documented in the current edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual, is specifically prohibited from the Village Commercial District.

**D. Land Uses Which Customarily Have Late Evening or Late Night Operating Hours Are Prohibited.**

Any land use, which has operating hours, which customarily extends into the late evening or late night is specifically prohibited from the Village Commercial District.

**E. Dimensional Requirements for Lots.**

Dimensional requirements for lots located in a Village Commercial District fall into one of two (1 of 2) types, depending upon the nature of the street to which they have vehicular access. Lots with vehicular access directly onto a major street (defined as an arterial, a highway, a major collector, or a parkway) shall have larger minimum lot sizes, lot widths, and building setback requirements. Lots with vehicular access to less heavily trafficked streets may have smaller lot sizes, lot widths, and smaller building setbacks. The objective of these standards is to preserve the taxpayer's investment and functional integrity of major streets in the community by minimizing the traffic congestion and frequent, hazardous turning movements associated with numerous driveways entering the major street. Dimensional standards for each lot type are as follows:

	<i>Lots with direct vehicular access to a major street</i>	<i>Other lots</i>
Minimum Lot Size	15,000 sq. ft.	8,000 sq. ft.
Minimum Lot Width*	100 ft.	60 ft.
Minimum Front Yard Setback**	50 ft.	12 ft.
Minimum Side Yard Setback	20 ft.	18 ft.
Minimum Rear Yard Setback	35 ft.	35 ft.
Maximum Impervious Surface Area	50%	50%

\*The minimum lot widths specified for the Village Commercial District shall not supersede the minimum lot widths and access limitations that may be part of special planning and traffic safety measures for major streets.

\*\*All principal structures shall be set back a distance equal to the average setback of typical, well-related principal structures on the same side of a street and block face. Where there are no such existing buildings, all new structures shall conform to a uniform front yard setback no less than the minimum noted in the table above.

## **F. Development Standards for Structures.**

### **1. Maximum Building Square Footage.**

The sum total of all building square footage on the site, including accessory structures, shall not exceed three thousand (3,000) square feet or twenty percent (20%) of the lot area, whichever is less. Two (2) or more existing smaller lots may be combined to create a large lot, but the three thousand (3,000) square foot maximum building size shall not be exceeded.

### **2. Height of Structures, Generally.**

All structures shall be one (1) story and shall not be taller than twenty-five (25) feet to the top of the highest ridge.

### **3. Roofs.**

All principal structures shall have a roof pitch which matches the prevailing roof pitch of other typical, well-related principal structures on the same side of a street and block face. Principal roofs shall be gabled and/or hipped design.

## **G. Exterior Storage/Exterior Activities.**

There shall be no outdoor storage, display, or placement of materials, goods or equipment allowed. The following shall not be allowed: activities conducted anywhere on the site, in or outside of any structure (including the parking and storage of vehicles), which would generate a nuisance such as noise, light, vibration, dust, odor, health hazard or other affects objectionable within or near a residential area.

## **H. Signage.**

One (1) sign per principal structure shall be permitted in the Village Commercial District. This sign may be a ground sign, projecting sign, or wall sign. The area of the sign on any one (1) side shall be two (2) square feet per thousand (1000) square feet of lot area, not to exceed thirty-two (32) square feet. Ground signs shall be no taller than eight (8) feet above the true finished grade (i.e. not on top of an earthen berm or other elevated location). Signs shall be illuminated only by shielded exterior lighting. The intent is to have commercial signage, which is compatible in scale, and character with nearby residential uses.

## **I. Exterior Area and Spot Lighting.**

Exterior area and spot lighting shall not be installed at a height of more than twelve (12) feet above the true finished grade and shall be so shielded as to cast no direct light upon adjacent property.

## **J. Off-Street Parking and Loading.**

The off-street parking and loading requirements of Section 8.1 and 8.2 shall be met, except that for renovations and/or adaptive reuse of an existing structure, the Planning Director, City Engineer and City Horticulturist may allow for up to a fifty (50%) percent reduction in the

number of off-street parking spaces required, may modify the paving requirements, and parking lot buffer requirements. Newly constructed structures may be eligible for up to thirty-three and a third (33 1/3) percent reduction in parking spaces. Any waiver from stated requirements must be based on unique circumstance or unnecessary hardship.

#### **K. Trash Facilities.**

Dumpsters and/or three hundred (300) gallon trash cans of which type of container and location shall be approved by the solid waste superintendent or his designee, shall be closed on three (3) sides with walls at least eight (8) feet high and constructed of the same material as the principal building on the zoning lot; the fourth side of the enclosure shall be a permanent gate made of wood or other opaque material.

#### **L. Fences.**

Fences of up to four (4) feet in height may be placed in any front yard. Fences of up to ten (10) feet in height may be placed in any side or rear yard, but shall not extend forward of the front face of the principal structure, unless required as part of a residential buffer.

#### **M. Buffer Required When a Commercially Used Lot Abuts a Residentially Zoned or Used Lot.**

When, within the Village Commercial District, a new structure is built for commercial use, or an existing residential structure is converted to a commercial use, a screening buffer shall be provided along all side and rear property lines abutting a residential district or use. The type of buffer and its design shall be in accordance with the standards of Section 10.6 D. 1) a), and shall meet the following requirements:

1. When the rear lot line of the commercially used lot abuts a residentially used lot, whether in or outside of the Village Commercial District, the buffer shall extend along the entire length of the rear lot line.
2. When the side lot line of the commercially used lot abuts a residentially used lot that is within the Village Commercial or other non-residential district, the side lot line buffer shall extend forward only as far as the front face of the commercial structure.
3. When the side lot line of the commercially used lot abuts a residentially used lot that is within a residential district, the side lot line buffer shall extend forward all the way to the street right of way.

#### **N. Relationship to Gateway Corridor Overlay District.**

1. When a Village Commercial lot falls within the boundary of a Gateway Corridor Overlay District, the site plan submission and approval provisions of the Gateway Corridor Overlay District shall apply to:
  - a. new construction projects and/or
  - b. additions to existing residential structures which are being converted or have been previously converted to a non-residential use and/or

- c. The addition of substantial site improvements, such as an off-street parking lot, area lighting, or a trash dumpster.
2. Simple conversions of an existing residential structure to a non-residential use involving only the addition of a conforming sign shall be exempt from the site plan submission and approval requirements of the Gateway Corridor Overlay District.
3. Where the standards of the Village Commercial District are more stringent than those of the Gateway Corridor Overlay district, the more stringent standard shall apply.

#### **O. Conflicts with Other Provisions of the Zoning Ordinance.**

Where specific standards for development in this district are provided, they shall supersede the general provisions of the zoning ordinance for the same subject matter.

### **SECTION 7.9 HOSPITALITY OVERLAY DISTRICT (HOD)<sup>10</sup>**

#### **A. Purpose.**

The Hospitality Overlay District (the “HOD”) is intended to provide an area in downtown Opelika with special classification for unique mixed use commercial and residential development. The HOD will be characterized by its focus in a variety of entertainment and art venues, retail, personal services, offices and restaurants. Due to the intended uses, limited size, breadth of multiple land use development in the downtown area, the HOD may have a regional economic impact and cannot be reasonably served by existing zoning classifications and districts. Because of the Districts limited size, location and entertainment opportunities; modification of and limitations in restaurants, bars/lounges serving alcohol, and other specialized land uses: Conditional Use approval from the Planning Commission is necessary for addressing public safety, noise/hours of operation, and other quality of life issues. The HOD will be linked to development meeting the criteria set forth here and will only be granted upon application to and approved by the City Council. No property may be zoned for HOD status unless it meets the following criteria:

1. The Ultimate area of the HOD shall not extend beyond the boundaries of the C-1 Downtown Commercial District.
2. The initial location of the HOD will be those properties located on the one (1) block of South Railroad between 8<sup>th</sup> Street and 9<sup>th</sup> Street.
3. All requirements of the Downtown Historic District administered by the Historic Preservation Commission shall be satisfied.
4. All area requirements set forth in Section 7.3 Specific District Regulations; Subsection District Regulation; Area Requirements for C-1 (Downtown Commercial) shall be satisfied.

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<sup>10</sup> Date of Amendment: November 3, 2010 Ordinance No. 124-10

**B. The following table illustrates the land uses that are either allowed uses or conditional<sup>11</sup>uses:**

<b>A = Allowed Land Use</b>	<b>C = Conditional Use</b>
1. Retail stores for the indoor display, sale, and rental of general merchandise and consumer goods	A
2. Professional and business offices	A
3. Personal service uses such as spas, beauty/barber shops, dry cleaning pick-up, tailor shops, etc...	A
4. Financial Institutions	A
5. Grocery store, curb market	A
6. Fast food restaurants, no alcohol served	A
7. Cafeterias, delicatessens, restaurants, ice cream/specialty food shops, with sales of a minimum 60% food	A
8. Mobile Food Vending	C
9. Bed and Breakfast Accommodations	C
10. Places of indoor/outdoor assembly for performance and exhibit of any venue related to the arts	C
11. Multifamily development including apartments, lofts, or condominiums	C
12. Manufacturing industrial to retail business where activities are sold at retail on premises	C
13. Lounges, bars, taverns, and similar uses allowing dancing, vocal and instrumental music with sales of alcoholic beverages not to exceed 80%	C
14. Any retail or wholesale business or service not specifically listed	C
15. Traditional historical and special events catering to city residents at large and visitors to Opelika	A

**SECTION 7.10 RETAIL ENTERTAINMENT DISTRICT<sup>12</sup>**

**A. Purpose.**

The R/E District is intended to accommodate mixed and divergent uses within a narrowly defined area, which is largely self-contained and segregated from the surrounding developments. Because of the variant uses, it is intended that the R/E District be treated unlike and unique from any other district or zoning classifications. It is anticipated that the R/E District will be a tourist attraction with a regional impact and will generate traffic, noise and light, which will be greater than other areas. Therefore, the restrictions on the application of the R/E District as defined herein must be strictly applied. However, once established the R/E District will be characterized by an unconventional mix of uses that will, among other things, allow for multiple uses of parking facilities during any twenty-four (24) hour period without requiring each use to have an independent parking ratio as is required in other zoning districts. See Section 7.9 F. for parking regulation.

<sup>11</sup> Date of Amendment: November 3, 2010 Ordinance No. 124-10

<sup>12</sup> Date of Amendment: November 21, 2007 Ordinance No. 123-07

## **B. General Standards.**

1. The development consists of an orderly and creative arrangement of land uses, both in respect to each other and to adjacent properties;
2. The development provides a comprehensive and integrated transportation system that separates pedestrian and vehicular traffic, including roadways, bicycle paths, and/or pedestrian walkways;
3. The application provides for adequate public infrastructure facilities;
4. No access ways, except pathways, are to be constructed, installed, or located on lands having a slope greater than thirty (30%) percent;
5. Sidewalks or other pedestrian pathways and bikeways that link older and developed areas of the city are in accordance with the comprehensive plan;
6. The development, where possible, will utilize design and architectural detail consistent with the size, use, and layout of the parcel;
7. All business, services, and storage, shall be permitted only on the same lot with and ancillary to a permitted use. The outdoor area devoted to storage, and loading shall be limited to that area so designated on an approved site plan and properly screened from public view;
8. All refuse shall be contained in completely enclosed facilities, and screened with materials similar or compatible to the building so served;

## **C. Administration.**

Applications for an R/E District shall be made by the owner of the subject property or by his authorized agent on a form prescribed hereinafter. The development plans shall be submitted in a quantity specified by the Planner. The R/E District Procedure shall comprise a three-part process: a pre-application conference, a development plan review and a final review.

1. **Pre-application Conference.** Prior to subdividing, developing or constructing within the R/E District, the owner or his representative shall meet with the City Planner and the Planning Staff, City Engineer and Public Works Director to review the proposed project. The owner shall provide the following information:
  - a. A conceptual plan showing the location and acreage of the project and the proposed general layout of the streets and uses in relation to the existing natural and man-made conditions
  - b. Proposed uses.
  - c. Following the pre-application conference, the owner shall proceed with the development plan.

Upon receipt of the conceptual plan, the City Planner shall schedule and hold an informational review conference with the applicant. At said conference, the owner or his authorized agent shall present information submitted and receive comments from City staff attending. Representatives of the Planning Commission, City Engineer and the Public Works Director shall attend and at the discretion of, and as deemed desirable and necessary by the Planner, representatives from other City or public departments, agencies, boards or panels may be invited to attend.

- 2. Development Plan and Written Report.** A master development plan and written report of the project must be submitted to the Planning Staff and will only be accepted after a pre-application conference. This plan and report will be reviewed by the Planning Staff, other relevant City Staff (i.e. City Engineer, Public Works Director, Building Inspector, etc.) and by the Planning Commission for final action.

The following information shall be submitted to the Planning Commission and City Staff for approval of the master development plan:

- a. The legal description of the parcel(s) for which the approval is sought and a survey (certified by a licensed surveyor) which includes the dimensions of the existing property and any improvements.
- b. A development plan which shall be of a standard size and drawn by an architect, landscape architect, engineer, or licensed surveyor and include the following information:
  - i. Project name;
  - ii. Project owner;
  - iii. Date, standard scale (not smaller than one hundred (100) feet to the inch), dimensions and north arrow;
  - iv. Vicinity map;
  - v. Type and classification of adjacent streets;
  - vi. Total acreage or square footage;
  - vii. Location, width, and names of existing or previously platted streets, and railroads;
  - viii. Location, grades, sizes of utilities (water, sanitary sewer, and storm drainage), and the dimension and location of easements;
  - ix. Location of major surface water drainage improvements;
  - x. Location, size and dimensions of all previous or proposed vehicular drives, entrances, exits, traffic-circulation patterns, and acceleration and deceleration lanes into and from the District;
  - xi. All proposed peripheral buffers and/or screening;
  - xii. Topography at five (5) foot contour intervals or less, including floodplain boundary;
  - xiii. Any other data requested by the City Planner or Planning Commission considered necessary to an understanding and evaluation of this project; provided however specific development information such as the location of a specific use or street shall be reviewed by the City Planner. The City Planner shall determine if modifications to the master plan and written report is major or minor. Major changes from the master plan and written report shall be approved by the City Council.
- c. A written report describing the intent and general character of the proposed development. This report shall specifically include:
  - i. A general description of the project;
  - ii. Identification of the proposed method of water supply, sewage disposal, solid waste disposal and calculation of demand for such services;
  - iii. Identification of intended method of surface water drainage;
  - iv. Calculation of average daily traffic and peak hour(s) vehicle trip ends to be generated by the project with estimate of preferred route split, which includes a detailed traffic impact study that addresses how traffic volumes are projected to

increase over a period of time and how traffic volumes will impact nearby streets and intersections over time.

- v. Any proposed standards for development, including restrictions on use, density, yard requirements and protective covenants;
  - vi. Any plans for the protection of abutting properties;
  - vii. Identification of any proposed dedication of land for public use;
  - viii. Expression of intent with regards to the provisions of open space, courts, walks, and other common areas and their maintenance;
  - ix. Tables showing the acreage in the overall Project and in each use;
  - x. A project compilation schedule by phase; and
  - xi. Any other data requested by the City Planner or Planning Commission considered necessary to an understanding and evaluation of the project; provided however, specific development information such as the location of a specific use or street shall be reviewed by the City Planner. The City Planner shall determine if modifications to the master plan and written report are major or minor. Major changes from the master plan and written report shall be approved by the City Council.
  - xii. General Green Space (Landscaping) Description together with an overall landscaping and screening plan.
  - xiii. General Lighting, Graphics and Signage Description.
  - xiv. General Architectural Description and Objectives.
- d. Within fifteen (15) days of receipt of the completed master development plan, the City Planner shall schedule and hold a Development Plan review conference the purpose of which is to provide an opportunity for the applicant, the Planning Commission, the Public Works Department and representatives from other departments or agencies invited by the Planner to review the Development Plan regarding compliance of various elements proposed with applicable planning and zoning regulations of the City.

**3. Public Hearing.** Within forty (40) days following the Development Plan review conference, a public hearing shall be held before Planning Commission for formal action on the proposed development. As appropriate, this hearing may include and incorporate any hearing required for compliance with the Subdivision Regulations. Within forty (40) days following said hearing, the Planning Commission shall render its decision. Action taken by the Planning Commission may be a recommendation of any of the following:

- a. Approval.
- b. Conditional Approval, wherein certain changes are required, or certain conditions of approval have been imposed, as deemed necessary and desirable in the judgment of the Planning Commission to ensure conformity to applicable criteria and standards.
- c. Denial, when the Planning Commission finds that the proposed development does not meet applicable criteria and standards.

**4. The R/E District.** Recommendation shall then go before the City Council as an ordinance following the applicable procedures of the Code of Alabama and this ordinance. Action taken by the City Council shall be deemed final and may be any one of the following:

- a. Approval.
- b. Conditional approval, either as recommended by the Planning Commission or with other conditions.

- c. Denial.
- d. If approved, such change shall be noted on the Zoning Map as “R/E District” and the development plan shall be on file in the City Clerk’s office, with copies provided to the City Planner, City Engineer, and Building Official.

#### **5. Implementation by Planning Staff.**

Following approval of the master development plan, the Owner may implement or modify the plan by making application to the Planning Staff. The Planning Staff shall have the authority approve administrative subdivision requests as set forth in the section 4.11 Administrative Subdivision of the Subdivision Ordinance, approve development plans and permit deviations from the master plan that are in keeping with the spirit and intent of the approved master plan and the ordinances affecting an R/E District. It is intended that matters dealing with platting and subdivision of any portion of the R/E District, development plans, signage, building height, parking, or traffic shall not need nor be required to have Planning Commission approvals; rather the Planning Staff and City Engineer are authorized to review and approve all such matters including but not limited to administrative subdivisions, access to public rights of way, and parking requirements.

The Planning Staff shall act upon any request within forty-five (45) days of submission of any application. If no response is received by, the applicant within said period the application shall be deemed approved.

Notwithstanding the foregoing to the contrary, Owner shall have the right to request approval of any development related item by the City Council and the decision of the City Council shall be subject to appeal to the Circuit Court of Lee County, Alabama as in all other cases.

#### **D. Maintenance of Open Space.**

Whenever common open space is provided, the Planning Commission or the City Council, as appropriate, shall require that an association of owners or tenants be created for the purpose of maintaining such open space. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to maintain said open space for the purposes intended. The period of existence of such association shall not be less than twenty (20) years, and it shall continue thereafter and until a majority vote of members shall terminate it.

#### **E. Parking.**

Within the R/E District, there will be numerous businesses and activities that will allow for shared use of parking facilities and areas that will serve as parking for some events but as other uses when not assigned as parking. Therefore when reviewing parking needs for the R/E District, no specific parking ratio will be required. The Planning Staff and City Engineer must consider the uses, timing of such uses and functionality of the areas for the R/E District as a whole and not require each site to maintain a self-supporting parking requirement. The R/E District may have designated event/overflow parking that may be maintained as grassed or partially grassed areas. As used herein an event facility shall be one that is not open on a normal basis. Such designation as event/overflow parking shall not prohibit the designation of the same area for other uses or

activities at times when not being used as parking. For example, an area used for a drive-in theatre may also be considered as parking for events such as a concert or other entertainment or retail venues.

**F. Green Space (Landscaping Areas).**

Any “green space” requirements for any property being developed within the R/E District shall be considered for the R/E District as a whole. The Owner shall submit an overall landscape and screening plan to the City Planner. Green space may include plant materials such as trees, shrubs, ground cover, and other materials such as rocks, water, sculpture, art, walls, paving materials and street furniture. Each site shall not be required to maintain a self-supporting “green” requirement. In considering the “green space” for the R/E District, the Planning Staff shall consider each and every area within the R/E District that maintains any grass or other vegetation toward any “green” requirement even if such area is used for some other use such as, for example, parking, and drive-in theatre or amphitheater.<sup>13</sup>

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<sup>13</sup> Date of Amendment: November 21, 2007 Ordinance No. 123-07

## SECTION VIII

### GENERAL PROVISIONS

The following General Provisions are hereby included to supplement and guide development allowed by Section 7 of this Ordinance.

#### SECTION 8.1 OFF-STREET PARKING

The following minimum number of parking spaces shall be required of the nonresidential uses specified below in all districts except the Central Business District. No off-street parking will be required for nonresidential uses in the Central Business District. The minimum size of each parking stall shall be nine (9.0) feet by eighteen (18) feet, exclusive of aisle width.

Reference herein to “employee(s) on the largest work shift” means the maximum number of employees employed at the facility regardless of the time period during which this occurs and regardless of whether any such person is a full-time employee. The largest work shift may be a particular day of the week or a lunch or dinner period in the case of a restaurant.

The term “capacity” as used herein means the maximum number of persons that may be accommodated by the use as determined by its design or by fire code regulations, whichever is greater.

##### **A. Agriculture Uses.**

One (1) space per employee on the largest shift.

##### **B. Agriculture Support Uses.**

One (1) space per employee on the largest shift, plus one (1) space per two hundred (200) square feet of gross floor area provided for customer sales and service operations.

##### **C. Commercial and Entertainment Uses, Except as Specifically Designated Below.**

One (1) space per hundred fifty (150) square feet of gross floor area of customer sales and service, plus one (1) space per two hundred (200) square feet of office gross floor area, or, if the use has at least one hundred thousand (100,000) square feet of gross floor area, five and one-half (5.5) spaces per one thousand (1,000) square feet of gross floor area.

##### **D. Other Commercial and Entertainment uses.**

**Banks.** One (1) space per two hundred (200) square feet of gross floor area of customer sales and service, plus five (5) spaces off-street waiting (loading) spaces per drive-in lane, plus one (1) space per employee on the largest work shift.

**Funeral home.** One (1) space per four (4) patron seats or twenty-five (25) spaces per chapel unit, whichever is greater.

**Grocery or supermarket.** One (1) space per two hundred (200) square feet of gross floor area of customer sales and service.<sup>1</sup>

**Hospital.** Two (2) spaces per three (3) patient beds, plus one (1) space per staff doctor and each other employee on the largest work shift.

**Hotel or motel.** One (1) space per room or suite, plus one (1) space per every three (3) employees on the largest work shift, plus one (1) space per three (3) persons to the maximum capacity of each public meeting and/or banquet room, plus fifty percent (50%) of the spaces otherwise required for accessory uses (i.e. restaurants and bars).

**Private clubs.** One (1) space per three (3) persons to the maximum capacity of the facility.

**Repair services.** One (1) space per three hundred (300) square feet of gross area of customer sales and service, plus one (1) space per employee on the largest work shift.

**Restaurant, standard.** One (1) space per three (3) patron seats or one (1) space per hundred (100) square feet of gross floor area of customer sales and service, whichever is greater, plus one (1) space per employee on the largest work shift.

**School, commercial or trade.** One (1) space per three (3) students, plus one (1) space per employee (including faculty) at capacity class attendance period.

**Shopping center.** Five (5) spaces per one thousand (1,000) square feet of gross floor area of customer sales and service.

**Theaters and Auditoriums.** One (1) space per four (4) persons based on maximum capacity, plus one (1) space per two (2) employees on the largest work shift.<sup>2</sup>

**Commercial/recreational uses, except as designated below.** One (1) space per four (4) patrons to the maximum capacity of facility, plus one (1) space per two (2) employees on the largest work shift.

#### **E. Additional Commercial/recreational Uses.**

**Bowling alley.** Five (5) spaces per lane, plus one (1) space per employee on the largest work shift.

**Drive-in theater.** One (1) space per automobile station, plus one (1) space per employee.

**Golf driving range.** One (1) space per tee, plus one (1) space per employee on the largest work shift.

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<sup>1</sup>Date of Amendment: November 7, 2007 Ordinance No. 118-07

<sup>2</sup> Date of Amendment: November 17, 2009 Ordinance No. 120-09

**Miniature golf.** One and one-half (1.5) spaces per hole, plus one (1) space per employee on the largest work shift.

**Outdoor theater.** One (1) space per three (3) patrons to the maximum capacity of the facility inclusive of both indoor and outdoor capability.

**Skating rank, ice or roller.** One (1) space per three hundred (300) square feet of gross floor area of customer sales and service.

**Manufacturing.** One (1) space per employee on the largest shift, plus one (1) space per company vehicle normally left on the premises.

#### **F. Other Heavy Industrial Uses.**

**Truck terminal.** One (1) space per employee on the largest shift, plus one (1) space per truck normally parked on the premises, plus one (1) space per three (3) patrons to the maximum capacity. All spaces where trucks will be parked and associated drives must be surfaced to the minimum requirements for parking lots as found in the Public Works Manual.

**Junkyard.** One (1) space per ten thousand (10,000) square feet of gross land area, plus one (1) space per employee on the largest work shift.

**Warehouse.** One (1) space per employee on the largest shift plus one (1) space per four thousand (4,000) square feet of gross floor area.

**Institutional, indoor, recreational, and special residential uses, except as specifically designated below.** One (1) space per three (3) patrons to the maximum capacity, plus one (1) space per employee on the largest shift.

#### **G. Other Indoor Institutional, Indoor Recreational and Special Residential Uses.**

**Cemetery.** One (1) space per employee, plus one (1) space per four (4) visitors to the maximum capacity.

**Church.** One (1) space per four (4) seats of maximum capacity.

**Community and recreation center.** One (1) space per two hundred and fifty (250) square feet of gross floor area, or one (1) space per four (4) patrons to the maximum capacity, plus one (1) space per employee on the largest shift.

**Day or nursery school.** One (1) space per teacher/employee on the largest shift, plus one (1) off-street loading space per six (6) students.

**Group Home.** Three (3) parking spaces for up to three (3) residents, plus one (1) additional space for each additional two (2) residents. It is preferred that parking spaces be provided in the rear yard with adequate driveways providing access to a paved public way (street or alley).<sup>3</sup>

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<sup>3</sup> Date of Amendment: September 16, 1997 Ordinance No. 124-97

**Libraries and museums.** One (1) space per two hundred and fifty (250) square feet of gross floor area of customer service or one (1) space per four (4) seats to the maximum capacity, whichever is greater, plus one (1) space per employee on the largest shift.

**Nursing homes.** One (1) space per six (6) patient beds, plus one (1) space per employee on the largest shift, plus one (1) space per staff member and visiting doctor.

**Schools.**

1. Elementary and junior high: One (1) space per teacher and staff member, plus one (1) space per two (2) classrooms.
2. Senior high: One (1) space per teacher and staff member on the largest shift, plus one (1) space per five (5) non-bused students.
3. College: One (1) space per staff member on the largest shift, plus one (1) space per three (3) students of the largest class attendance period.

**Swimming facility.** One (1) space per seventy-five (75) square feet of gross water area, plus one (1) space per employee on the largest shift.

**Tennis, racquetball, handball courts.** Four (4) spaces per court, plus one (1) space per employee on the largest shift.

**Commercial support uses.** One (1) space per employee on the largest shift, plus one (1) space per company vehicle regularly stored on premises.

**Veterinary office with enclosed kennels and/or pens.** Three (3) spaces per doctor, plus one (1) space per employee on the largest shift.

**Nursery uses.** One (1) space per each five hundred (500) square feet of display and sales area both indoor and outdoor, excluding areas used exclusively for the storage or propagation of plants, but not less than five (5) for each such use.

**Office uses.** One (1) space per two hundred and fifty (250) square feet of gross floor area of customer sales and service and office area.

**H. Other Office Uses.**

**Beauty and barbershops.** Three (3) spaces per operator or one (1) space per one hundred (100) square feet of gross floor area of customer sales and service, whichever is larger, plus one (1) space per employee on the largest shift.

**Medical offices.** One (1) space per each two hundred (200) square feet of gross floor area, including pharmacies and other retail uses, but excluding corridor and lobby areas, plus one (1) per each separate medical or dental treatment room or laboratory.

**Outdoor recreational uses.** One (1) space per four (4) expected patrons at capacity.

**Golf courses (nine and eighteen hole).** Fifty (50) spaces per nine (9) holes, plus one (1) space per employee on the largest shift, plus fifty (50) percent of spaces otherwise required for any accessory uses (e.g., bars, restaurants).

**Golf, par three.** Thirty (30) spaces per nine (9) holes, plus one (1) space per employee on the largest shift.

**Outdoor swimming pool.** One (1) space per seventy-five (75) square feet of gross water area.

**Tennis court.** Three (3) spaces per court.

**Public services uses.** One (1) space per employee on the largest work shift, plus one (1) space per company vehicle normally stored on the premises.

**Recreational Vehicle Park.** One and one-half (1.5) spaces per each recreational vehicle site, plus one (1) space per employee on the largest shift.

**Convenience (7-Eleven) grocery.** One (1) space per one hundred (100) square feet of gross floor area of customer sales and service.

**Fast-food restaurant.** One (1) space per fifty (50) square feet of gross floor area of customer sales and service, plus one (1) space per employee on the largest work shift.

**Taverns, dance halls, nightclubs, and lounges.** One (1) space per fifty (50) square feet of gross floor area of customer sales and service-, plus one (1) space per employee on the largest shift.

**Truck Stop.** One (1) space per each twenty-five hundred (2500) square feet of gross site area, but not less than eight (8) per each such use.

**Vehicle sales and service.** One (1) space per fifteen hundred (1,500) square feet of gross floor area of customer sales and service. In addition, all areas used for outside display of automobiles must be hard surfaced according to the standards for parking areas, as found in the Public Works Manual.

**Vehicle repair and maintenance services.** One (1) space per four hundred (400) square feet of gross floor area of customer sales and service, plus one (1) space per employee on the largest work shift.

**Mini-warehouse.** One (1) space per ten (10) storage cubicles, plus two (2) spaces per manager's residence, plus one (1) space per twenty-five (25) storage cubicles located at the warehouse office.

**Residential uses.** Two (2) spaces per each dwelling unit.

## SECTION 8.2 OFF-STREET LOADING

- A.** One the same lot with every structure or use hereafter erected or created there shall be provided and maintained, space (when required in Section VII) for loading and unloading of materials, goods, or things, for delivery and shipping, so that vehicles for these services may use this space without encroaching on or interfering with the public use of streets and alleys by pedestrians and vehicles.
- B.** Where any structure is enlarged, or any use is extended so that the size of the resulting occupancy comes within the scope of this Section, the full amount of off-street loading space shall be supplied and maintained for the structure or use in its enlarged or extended size. Where the use of a structure or land or any part thereof is changed to a use requiring off-street loading space under this Article, the full amount of off-street loading space shall be supplied and maintained to comply with is Article.
- C.** For the purpose of this Section, an off-street loading space shall be an area at least twelve (12) feet wide by forty-five (45) feet long with fourteen (14.5) and one-half foot vertical clearance. Each off-street loading, space or alley shall be arranged for convenience and safe ingress and egress by motor truck and for trailer combination.
- D.** Off-street loading space shall be provided and maintained in accordance with the following schedule:
1. For each retail store, storage, warehouse, wholesale establishment, industrial plant; factory, freight terminal, market, restaurant, mortuary, laundry, dry-cleaning establishment, or similar use which has an aggregate floor area of:
    - a. Over 10,000 sq. ft. but not over 25,000 sq. ft. — 1 space
    - b. Over 25,000 sq. ft. but not over 60,000 sq. ft. — 2 spaces
    - c. Over 60,000 sq. ft. but not over 120,000 sq. ft. — 3 spaces
    - d. Over 120,000 sq. ft. but not over 200,000 sq. ft. — 4 spaces
    - e. Over 200,000 sq. ft. but not over 290,000 sq. ft. — 5 spaces
    - f. For each additional 90,000 sq. ft. over 290,000 sq. ft. or fraction thereof one (1) space.
  2. For each apartment building having over fifty (50) dwelling units, two (2) spaces.
  3. For each auditorium, convention hall, exhibition hall, museum, hotel, apartment-hotel, sports arena, stadium, hospital, sanitarium, welfare institution or similar use, which has an aggregate gross floor area of:
    - i. Over 10,000 sq. ft. but not over 40,000 sq. ft. — 2 spaces
    - ii. For each additional 60,000 sq. ft. over 40,000 sq. ft. or major fraction thereof — 1 space
  4. For any use not specifically mentioned in this section, the requirements, for off-street loading for a use, which is so, mentioned, and to which the unmentioned use is similar, shall apply.

- E. Off street loading facilities supplied to meet, the needs of one use shall not be considered as meeting the off-street loading needs of any other use.
- F. No area or facility supplied to meet the required off-street parking facilities for a use shall be utilized for or deemed to meet the requirements of this Article for off-street loading facilities.
- G. Nothing in this Section shall prevent the collective, joint or combined provision of off-street loading facilities for two (2) or more buildings or uses provided that such off-street loading facilities are equal in size and capacity to the combined requirements of the several buildings or uses and are so located and arranged as to be useable thereby.
- H. Plans for buildings or uses requiring off-street loading facilities under the provisions of this Article shall clearly indicate the location, dimensions, clearance and access of all such required off-street loading facilities.

### **SECTION 8.3 MOBILE HOME PARK DEVELOPMENT STANDARD<sup>4</sup>**

In order to provide for a clean, safe and healthy living environment for residents living in mobile homes the following standards are to guide the development of mobile home parks. Plans meeting these minimum specifications will be approved by the building official in those zones permitting mobile home parks.

#### **A. Standards for Design.**

1. **Minimum Lot Size:** Minimum lot size shall be five thousand (5,000) square feet where sewer is provided or as regulated by the Alabama Health Department where sewer is not available but in no case less than five thousand (5,000) square feet. Minimum lot width shall be fifty (50) feet. Yard dimensions (setbacks) for mobile home lots shall be as follows:

*Side Yard - 10 feet minimum Rear Yard - 10 feet minimum Front Yard - 10 feet minimum*

A mobile shall have a minimum of twenty (20) foot separation from any other mobile home. Setbacks for the mobile home park exterior property lines shall conform to the zoning district where the park is located. When lots are designed for homes to be placed at forty-five (45) degree or sixty (60) degree angles to the street, side yard and rear yard requirements may be reduced to five (5) feet provided there must be thirty (30) feet of clear space between homes.

2. **Parking Requirements:** Two (2) spaces per unit shall be provided on each lot. Parking areas shall be maintained with an all weather-wearing surface (asphalt or concrete). Parking spaces shall be at least ten (10) by twenty (20) feet in size. All off street parking spaces shall have direct access to an interior street within the park; no direct access shall be permitted between mobile home lots to any exterior street.

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<sup>4</sup> Date of Amendment: December 21, 1999 Ordinance No. 136-99 Add MHP Development Standards

3. **Minimum Park Size:** A minimum area of three (3) acres shall be necessary to establish a mobile home park. A minimum of sixty (60) feet of property frontage shall be required along a public road.
4. **Maximum Density:** No more than seven (7) units per gross acre shall be allowed.
5. **Maximum Lot Coverage:** No mobile home and/or accessory building shall cover more than forty (40) percent of the lot area.
6. **Landscaping:** A mobile home park shall provide a permanent and maintained landscaped area at least twenty-five (25) feet in width around those portions of the park perimeter (exterior property lines) that border public rights-of-way. A six (6) foot solid wall or opaque fence may be provided in the said landscaped area. The wall or fence shall be setback a distance not less than twenty-five (25) feet from the exterior property lines that border public rights-of-way. The area between wall or fence and the exterior property lines shall be landscaped with a mixture of evergreen and home park perimeter that do not border rights-of-way shall meet residential buffer zone requirements as provided in the Landscape Regulations (Section X, 10.6, D.1). Additional landscaping may be required. Each mobile home lot shall be provided with at least one (1) tree. The property owner shall be responsible for the installation and continual maintenance of the required landscaping.
7. **Recreational Vehicles:** Each park may devote a maximum of five (5) spaces to transient recreational vehicles and shall license each space devoted to such use whether rented or not. This provision does not prohibit the use of any space for temporary use for a recreational vehicle or mobile home.
8. **Roadways:** Mobile homes shall front upon a paved roadway having a right-of-way of not less than forty-two (42) feet and a paved surface of not less than twenty-two (22) feet in width. The construction of the roadway shall meet road construction standards as discussed in the Opelika Public Works Manual. Cul-de-sacs shall be provided at the closed end with a minimum forty (40) feet radius paved driving surface of concrete or asphalt and shall be kept in good repair by the park owner. Street lighting shall be provided throughout a mobile home park with lighting units so spaced and equipped with luminaries placed at such heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night: an average luminance of four (4) lux (defined as the omens per square meter reaching a surface) and the luminance uniformity ratio should be set at a maximum of six (6) to one (1).
9. **Refuse:** Private dumpster services shall be provided for refuse collection if City services are not provided. Dumpsters shall be easily accessible to the residents of the mobile home park for the collection and disposal of refuse. Bulk waste containers shall be provided at an average of at least one point five (1.5) cubic yards for every three (3) mobile homes. Dumpster sites shall be screened from public rights-of-way.
10. **Drainage:** All mobile home parks shall be located on well-drained sites, properly graded to insure positive drainage.
11. **Utilities:** Utilities shall be provided to each lot as follows:
  - a. All mobile home parks shall have the sanitary sewer drainage system extended to each mobile home lot and the connection from the mobile home into the sanitary sewage system shall be made under and/or within five (5) feet of the mobile home with a seal.

- b. Each mobile home lot shall be provided with an individual branch service line delivering safe, pure, potable water. The minimum size branch service to each mobile home lot shall be 3/4" and cut-off shall be installed on each branch, along with a back flow preventive device approved by a nationally recognized testing agency. All connections shall be made under and/or within five (5) feet of the mobile home. Water service shall meet the standards of the providing public water agency. Water service from the water meter to a mobile home shall be buried a minimum of twelve (12) inches in the earth.
  - c. In mobile home parks where gas distribution systems are installed, the installation shall conform to the requirements set forth by the Alabama Public Service Commission and the Alabama Gas Company.
  - d. Each mobile home lot shall be provided with an individual electrical service of adequate size to serve the mobile home placed on it. The service shall be mounted on a treated pole or metal pedestal and shall have a disconnecting means consisting of a circuit breaker or a switch and fuses housed in a panel approved for exterior use. The power supply wiring from the service to the mobile home shall be of a direct burial type, properly sized for service being connected and buried in the earth from the service to underneath the mobile home. If the supply cable is encased in metal or plastic pipe the minimum depth buried shall be as required by the current adopted addition of the National Electrical Code. If a new or used mobile home is replaced with another new or used mobile home, then an inspection is required. A primary service line shall not be located across the top of a mobile home.
- 12. Identification:** Mobile home lots shall be plainly staked off or marked. Each mobile home shall be permanently numbered with minimum 2-1/2" numbers and/or letters so they may be easily read from the street. The electrical service must also be permanently numbered for easy identification by meter readers. All lot numbers and street names shall be approved by the Fire Department.
- 13. Blocking and Tie Downs:** All unites must be anchored and blocked to conform to standards found in Act 1 i-X19, 5219, 197 Alabama Legislature.
- 14. Skirting:** All mobile homes shall have suitable skirting between the base of the trailer and the ground. This skirting shall be made of block, wood, vinyl, or other approved materials. Openings in the skirting shall not be more than two (2) inches square. Skirting shall be completed before utility services are turned on or a legal contract from a valid contractor performing the work is submitted to the building inspector indicating work will be completed in thirty (30) days or less, beginning date on said contract.

## **B. Submission of Plans.**

A site plan shall be submitted to the Zoning Administrator for review by ail appropriate agencies showing the following items. After satisfactory review, the plan shall be submitted to the Building Official for the issuance of a building permit.

1. Title, scale, north arrow, date, and name of site plan.
2. Existing buildings and structures.
3. Streets.
4. Service and maintenance building, if applicable.

5. Mobile home spaces, consecutively numbered or lettered.
6. Driveways and parking spaces with dimensions.
7. Recreational facilities, if applicable.
8. Drainage.
9. Proposed sanitary sewer system including size.
10. Proposed water distribution system and fire hydrants.
11. Proposed street lighting system and other lighting for benefit and safety of residents.
12. Site acreage.
13. Any other applicable portions of the Public Works Manual.
14. Dumpster(s) location and indicate dumpster size and frequency of refuse pick-up.
15. Landscape Plan.

### **C. Applicability to Existing Mobile Home Parks.**

The provisions of this amendment or ordinance shall not apply to any mobile home park presently licensed on the date this ordinance becomes effective, nor shall compliance be required as a result of change of park ownership or if any mobile home lot is vacated and then rented for another home except for the following:

1. A mobile home shall be at least twenty (20) feet from any other mobile home measured at its closest point.
2. A mobile home shall be at least ten (10) feet from all exterior property lines and five (5) feet from all interior private streets in the park.
3. A mobile home replacing an existing mobile home shall meet the above ten (10) feet minimum setback requirements and twenty (20) foot minimum spacing between mobile homes.
4. Requirements for skirting, utilities, blocking and tie downs as set forth in this section shall be provided.
5. All new or used mobile homes moving into mobile home parks shall be inspected. If a new or used mobile home is replaced with another new or used mobile home an inspection is required.

A mobile home park shall be considered to exist if a detailed development plan has been submitted to the Building Official, a permit has been issued, and substantial progress is being made toward completion of the development.

## **SECTION 8.4 USE OF MOBLE HOME**

### **A. No mobile home may be used for any purpose other than as regulated for residential use herein except as follows:**

1. As an office at a legally licensed mobile home sales lot.
2. A temporary construction on office at a construction job site provided that such us shall cease when a certificate of occupancy is issued.
3. Campaign Headquarters to be removed immediately after Election Day.
4. Showing of exhibits or special products for a period not to exceed fourteen (14) days.

5. For special sales or promotions by civic or non-profit organizations to be removed on a specified date.
6. As an office or storage by and for the owner of a mobile home park for materials and furnishings for the use of a park.
7. As a commercial use in an emergency situation for a period not to exceed one (1) year upon approval by the Planning Commission.

## **SECTION 8.5 MOBILE HOME SUBDIVISIONS DEVELOPMENT STANDARDS**

Where permitted in Article 7 of this ordinance subdivisions shall be permitted which are developed to allow the placement of mobile homes. Such subdivision standards are contained in the City of Opelika Subdivision Regulations but are further supplemented by the requirements here below: Nothing contained herein should infer that inferior development is permitted or expected.

### **A. Standards for Design.**

1. **Minimum Lot Size:** Each lot established in a mobile home subdivision shall meet the size requirements:
  - a. When served by public sanitary sewage system each mobile home lot shall contain not less than ten thousand (10,000) square feet and have a front width of not less than seventy-five (75) feet at the front mobile home placement line,
  - b. When served by private sanitary sewage system, such as septic tank, each mobile home lot shall contain not less than fifteen thousand (15,000) square feet of useable land area and have a front width of not less than seventy-five (75) feet at the front mobile home placement line.
  - c. When served by private sanitary sewage, such as a septic tank, and private water supply, such as a well, each mobile home lot shall contain not less than twenty thousand (20,000) square feet of land area, and have a front width of not less than seventy-five (75) feet at the front mobile home placement line.
2. **Building Setback Lines:**
  - Font Yard - 25 feet minimum
  - Side yard - 10 feet minimum
  - Rear yard - 20 feet minimum
3. **Home Arrangement:** Only one (1) mobile home shall be: allowed per lot.
4. **Maximum Lot Coverage:** No mobile home and/or accessory building shall cover more than forty-five (45%) of the total area.
5. **Blocking and Tie Downs:** All units must be anchored and blocked to conform to standards found in Act 11-49, 5219, 1975 Alabama Legislature.
6. **Skirting:** All mobile homes shall have suitable skirting between the base of the trailer and the ground. This skirting shall be made of block, wood, latticework or other approved materials. Openings in the skirting shall not be more than two (2) inches square.

## **B. Submission of Plans.**

All mobile home subdivisions shall be submitted to the Planning Commission through the normal plat approval process as found in the City of Opelika Subdivision Regulations.

## **SECTION 8.6 NOISE STANDARDS**

### **A. Any use to be located within the City of Opelika shall be subject to meeting noise standards.**

1. On any lot or tracts within residential districts, noise levels shall not exceed sixty (60) dBA between 7a.m. and 7 p.m. and fifty-five (55) dBA between 7 p.m. and 7 a.m.
2. On any lot or tract within commercial industrial and floodway districts, noise levels shall not exceed seventy (70) dBA between 7 a.m. and 7 p.m. and sixty-five (65) dBA between 7 p.m. and 7 a.m.
3. For any use with questionable noise levels, a plan of compliance shall be required by the building official. The plan shall show how the above specific standards will be met.
4. Measurements shall be taken with an American National Standards Institute (ANSI) Type 1 or Type 2 sound level meter using the A- weighted scale.
5. Reasonable flexibility and application of noise regulations shall be allowed for a short time periods however, noise in excess of ninety (90) dBA shall not be allowed at any time.

## **SECTION 8.7 REDUCTIONS IN LOT AREA PROHIBITED**

No lot shall be reduced in area so that yards and other open spaces total less than the minimum area required under this ordinance. (See below)

### **SECTION 8.7.1 BUILDINGS PER LOT<sup>5</sup>**

The following provisions shall govern the construction of buildings and structures:

- A.** Multiple buildings for multi-family and/or nonresidential use shall be permitted on the same lot in accordance with the regulations applicable to the districts in which they are located.
- B.** Single-Family Detached and Semi-Detached (duplex) Dwellings are limited to one such structure per lot except in districts permitting apartments as a “conditional” use, In such districts, one (1) or more Single-Family Detached and/or Semi-Detached (duplex) Dwelling may be permitted on the same lot as a conditional use (see Section 8.17 Conditional Uses); provided the structures or units are under one (1) ownership; or if

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<sup>5</sup> Date of Amendment: July, 15, 2003      Ordinance No. 113-03  
 -Date of Amendment: February 7, 1996      Ordinance No. 102-96

separately owned, are covered by a condominium declaration setting out the various rights and responsibilities of ownership, including access and the maintenance of common areas.

- C. Ancillary Dwelling Units (see Section 2.2 Definitions) are permitted in all zoning districts, including the R-1 and R-2 districts, as a permitted use provided the following conditions are met:
1. No more than one (1) ancillary dwelling unit shall be permitted on a single lot of record.
  2. One (1) of the dwellings shall be owner-occupied.
  3. Ancillary dwelling units shall meet all development requirements.
  4. Total square footage of the ancillary dwelling unit is limited to forty (40%) percent of the principle dwelling unit.
  5. It is preferred that all utilities be provided from the principal structure; however, if that is not feasible, the utilities shall at least be in the property owner's name.
  6. Ancillary dwelling units are prohibited from use as rental property.
  7. Ancillary dwelling units shall be in keeping with the character of the surrounding area and not to exceed two (2) stories in height. In the case where an ancillary dwelling unit is located above a garage, the garage will be considered the first floor of the two (2) story structure. The height of the ancillary dwelling shall not exceed the height of the primary structure as viewed from the road that the primary structure faces.
  8. Ancillary dwelling units shall not be manufactured homes except in districts permitting individual manufactured homes.
  9. Ancillary dwelling units shall not be recreational vehicles.
  10. Ancillary dwelling units shall use the same or compatible exterior material as the principal house. An elevation shall be submitted for Staff to review.
  11. Prior to a certificate of occupancy being issued, an addendum to the deed shall be recorded, or a restriction on the deed shall be added, if applicable, stating that the ancillary dwelling shall follow the requirements of this ordinance. The intent being that if the property is ever sold, the new property owner will know the requirements for the ancillary dwelling unit.

In the event that any of the fore mentioned conditions cannot be met or an interpretation is needed then the request shall go before the Planning Commission as a conditional use.

## **SECTION 8.7.2 RESIDENTIAL REDEVELOPMENT PROJECT<sup>6</sup>**

The City of Opelika seeks to encourage the redevelopment of residential neighborhoods that are experiencing decline evidenced by inadequate and/or deteriorating homes through residential redevelopment. As a result, the City will allow greater flexibility in the application of subdivision regulations, zoning regulations and other land use regulations for approved Residential Redevelopment Projects. The Residential Redevelopment Project is designed to eliminate unsafe housing conditions, promote affordable owner occupied housing, and provide a framework to enhance investor confidence. A Residential Redevelopment Project may be

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<sup>6</sup> Date of Amendment: November 5, 2002    Ordinance No. 127-02    SECTION 8.7.2 Add

approved only when a minimum of two (2) adjacent substandard homes fronting on the same street are replaced with single-family detached homes that are intended for owner occupancy.

The Planning Commission shall determine whether the proposed Residential Redevelopment Project is necessary, is in harmony with the purposes of this ordinance, and promotes the public health, safety, or welfare of the surrounding neighborhood. A public hearing shall be held by the Planning Commission and conditional use approval required for all Residential Redevelopment Project proposals. A site plan of the redevelopment project shall be submitted which shall comply with the requirements of Section 8.16 *Site Plan Review* as well as the requirements set out in this ordinance.

The criteria to be used by the Planning Commission to evaluate a Residential Redevelopment Project for approval include, but are not limited to, the following:

**Merits or the developer's Redevelopment Project.** The developer shall submit simultaneously with an application detailed evidence (photos, tax records, etc.) of inadequate and/or deteriorated homes within the project area to enable the Planning Commission to make an informed decision concerning the public need for the Redevelopment Project.

**Compatibility.** The new single-family homes to be constructed within the project area shall be consistent in design and appearance with two (2) or more existing homes fronting along the same street (or adjacent street within the project) and shall be compatible with the predominant character of the homes in the neighborhood. The design and appearance of the new homes shall be regarded as supportive of neighborhood character when similar exterior materials, front elevation facades, building site and height, and roof pitch are used. The developer shall provide scaled drawings, photographs, and/or renderings of the front elevation of the proposed single-family homes and existing homes in the neighborhood. Residential buffers may be required between the redevelopment area and established older homes in the neighborhood to enhance compatibility. The proposed project shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions or public utilities and/or facilities.

**Subdivision and Zoning Requirements.** Residential Redevelopment Projects shall be allowed in the R-3, R-4, R-4M, R-5, and R-5M zoning districts with conditional use approval. Residential Redevelopment Projects shall meet the density and building height requirements of the zoning district. The area (in square feet) of all new homes to be constructed within the project shall be not less than ninety percent (90%) of the average area of the existing homes located on the same street (or adjacent streets, if part of the project) within the Redevelopment Project. When lots are recorded at the Lee County Courthouse, and said lots are proposed to be resubdivided for the purposes of a Residential Redevelopment Project with respect to said lots, then the lot area, setbacks, and maximum building area approved shall be deemed to meet the requirements of the zoning district.

**Adequate Implementation Work Schedule.** The developer shall submit an implementation work schedule that represents the estimated time frame required to complete each work phase including a beginning and completion date. The work phases shall include an overview of the

work activities required to finance, construct, and complete the redevelopment project as well as an implementation strategy to sell the homes.

### **SECTION 8.8 CORNER VISIBILITIES IN ALL DISTRICTS**

In all districts except as otherwise noted no fence, wall; shrubbery, sign, marquee, or other obstruction to vision between the heights or three and one-half (3-1/2) feet and fifteen (15) feet above street level shall be permitted within twenty (20) feet of the intersection of the right-of-way lines of two (2) streets, or railroads or of a street and a railroad right-of-way line.

### **SECTION 8.9 SWIMMING AND WADING POOL**

Swimming pools and wading pools with a depth of one foot (1') or more in any portion of the pool, and not located within a permanently and completely walled structure, shall be constructed no closer than ten (10) feet of any property line and shall be completely fenced off from the ground up to a height of at least five (5) feet and shall not be located within a front yard unless located within a permanently and completely walled structure. Fences and gates shall be so constructed and of such materials so as to prevent the entry of children and usual household pet into the pool area. Gates shall be provided with adequate locking devices and shall be locked at all, times when pool is not in use.

### **SECTION 8.10 FUTURE STREET LINES**

On any lot which, at the time of adoption of this ordinance or at the time this ordinance is changed by amendment hereafter, may be reduced in area by widening a public street to a future street line as indicated on the duly adopted "Major Street Plan", or as same may be hereafter amended, the minimum required yards, the minimum required lot area, the minimum required lot width and the maximum building area shall be measured by considering the future street lines as the lot lines of such lot.

## SECTION 8.11 ACCESSORY STRUCTURES FOR RESIDENTIAL DWELLING UNITS<sup>7</sup>

### A. Accessory Structures.

Not including ancillary dwelling units (see definition and Section 8.7.1), shall conform to the following regulations:

1. No accessory structure shall be established or constructed unless site plan approval is given by the Planning Staff and building approval is given by the Building Inspection Department evidencing the compliance of such structure with the provisions of this Section and other applicable provisions of this Ordinance.

#### **Required site plan information:**

- a) All legal property boundaries and dimensions.
  - b) Location of the proposed structure and all existing structures from lot lines, building lines, and other structures.
  - c) Property owner name and address of site.
  - d) Flood plain information (portable buildings may be excluded from this requirement).
  - e) Standard scale used.
  - f) Calculation of the proposed building area or impervious surface, whichever is applicable.
  - g) The site plan must be clearly legible and drawn with a straight edge.
2. Accessory structures may be classified as permanent or temporary structures; however, they shall not exceed two (2) stories in height. In addition, the height of the accessory structure shall not exceed the height of the primary structure as viewed from the road and shall be at least five (5) feet from all lot lines and ten (10) feet from any other structures on the same lot, except swimming pools, may be closer than ten (10) feet to another structure.
  3. Accessory structures shall only be located to the rear of the principal structure, except for carports and garages, which may locate to the side of the principal structure if the side yard setback is met. Corner lots are considered to have two (2) front yards.
  4. Any one (1) lot may have up to three (3) detached accessory structures (i.e. garage, carport, storage building, etc.), not including swimming pools. Lots of two (2) acres or larger may be exempt from this limitation, if the structures are used for agricultural purposes.
  5. On any one (1) residential lot, the total square footage of all the accessory structures combined shall be limited to forty percent (40%) of the principal dwelling unit. Residential accessory structures include storage buildings, detached garages, detached carports, gazebos, greenhouses, etc. but not swimming pools. Lots of two (2) acres or larger may be exempt from this limitation at the discretion of either the Planning Director or Assistant Planning Director.<sup>8</sup>
  6. The maximum building area or maximum impervious surface area, whichever is applicable, shall be met according to the applicable district regulations.
  7. Accessory structures within a residential district shall not be used for any type of commercial operation whether permanent, part-time or as part of a home occupation.

<sup>7</sup> Date of Amendment: July, 15, 2003      Ordinance No. 113-03

<sup>8</sup> Date of Amendment: November 7, 2007      Ordinance No. 118-07

## SECTION 8.11.1 TEMPORARY STRUCTURES/ TEMPORARY USES<sup>9</sup>

Temporary structures and/or temporary uses are permitted only as expressly provided in this section. No temporary use or temporary structure shall be established unless a zoning certificate evidencing the compliance of such use with the provisions of this section and other applicable provisions of this Ordinance shall have first been issued, as provided in Section 3.1, *Building Permit Required*.

Exemptions. Temporary Uses located in Temporary Structures that do not exceed three (3) days in a twelve (12) month time period and the temporary structure is eight hundred (800) square feet or less in size will not require a building permit nor a zoning certificate. If the event is to be held at a recognized celebration site for special events, special observances, special functions, special days and the like, the twelve (12) month time separation requirement between events will be waived. Celebration sites include all places of worship, country clubs, hotels, conference centers, bed and breakfast facilities, recognized places of receptions, public parks, etc.

The following are temporary uses, which are subject to the following specific regulations and standards, in addition to the other requirements specified in this Ordinance.

### **A. Temporary Tent Sales, Sales Using Non-Permanent/Temporary Structures, and Outdoor Sales/Service Activity.**

1. The outdoor storage or display of merchandise or the performance of an outdoor activity (i.e., car wash, auto-detailing service, etc.) shall be exempt from the following requirements if the merchandise is located or the service performed under an approved permanent structure or approved permanent outdoor display area, which is designated as such on an approved site plan. The permanent structure or permanent display area shall not occupy required parking spaces, nor interfere with driveway aisles, ingress and egress, sight triangles, required setbacks, or required buffer yards.
2. Temporary tent sales and temporary outdoor sales/service activity shall be permitted only in the C-3 (General Commercial), C-2 (Office/Retail), C-1 (Downtown Commercial), I-1 (Institutional), R-1 (Rural), M-1 (Industrial), M-2 (Industrial), and the GC-2 (Gateway Overlay Corridor Zone) zoning districts.
3. The applicant shall submit a site plan specifying the location of all tents, temporary structures, equipment, and merchandise on display and/or the location of any outdoor service or activity to be performed. The structure, merchandise or activity shall not occupy required parking spaces, nor interfere with driveway aisles, ingress and egress, sight triangles, required setbacks, or required buffer yards.
4. All proposed signs shall be shown on the site plan. Temporary signs, together with any permanent signs on the site, shall conform to all applicable sign regulations as specified in Section IX Sign Regulations.
5. All electrical connections shall be inspected and approved by the Building Inspection Department.

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<sup>9</sup> Date of Amendment: September 4, 2001    Ordinance No. 159-01

6. All appropriate permits shall be obtained from the building inspector, city engineer, and city planner prior to operation.
7. The Planning Director and/or City Engineer may establish additional requirements as necessary to minimize hazards and promote efficient traffic circulation on the site.
8. The maximum length of the permit shall be thirty (30) days. A maximum of four (4) permits per calendar year may be authorized, and at least sixty (60) days shall elapse between the expiration of one permit and the approval of another.
9. Before a temporary permit is granted, the owner or agent shall sign a statement stating that the temporary structure, decorative materials and tarpaulins meets the requirements for fire resistance prescribed in NfiPA 701, and that such fire resistance is effective for the period specified by the Permit. A certificate of flame resistance, issued by the manufacturer, shall be located on the structure. Ground within and adjacent to temporary structures shall be cleared of all grass, underbrush or similar fire hazards.

**B. Temporary or permanent stands, tents, canopies, etc., erected for the purpose of sale of vegetables, fruits, produce, Christmas Trees, or goods of any kind are prohibited in any residential zoning district [except R-1 (Rural District)] unless sales will not exceed three (3) days in a twelve (12) month period and the structure is forty (400) square feet or less in size, in which case, a permit will not be required.**

**C. Tents for public assembly or for public use, or temporary commercial recreational facilities, such as carnivals and fairs, revivals and special events of public interest shall be permitted in any C-3 (General Commercial), C-2 (Office/Retail), C-1 (Downtown Commercial), I-1 (Institutional), M-1 (Industrial), and M-2 (Industrial) districts for periods not to exceed thirty (30) days in a twelve (12) month period and in accordance with the following:**

1. Before a temporary permit is granted, the owner or agent shall sign a statement stating that the temporary structure, decorative materials and tarpaulins meets the requirements for fire resistance prescribed in NfiPA 701, and that such fire resistance is effective for the period specified by the permit. A certificate of flame resistance, issued by the manufacturer, shall be located on the structure.
2. Ground within and adjacent to tents shall be cleared of all grass, underbrush or similar fire hazards.
3. Documentation from the Lee County Health Department must be provided that adequate arrangements for temporary sanitary facilities have been made.
4. All uses shall be confined to the dates specified in the permit.
5. All uses shall observe the minimum setback requirements of the district, except when adjacent to a residential district, when the minimum setback shall be fifty (50) feet.
6. It is recommended that ingress and egress from a street be maintained so as not to impede the normal flow of circulation of traffic. The traffic circulation plan shall be approved by the city engineer in accordance with all applicable codes.
7. Adequate temporary or permanent sanitary facilities shall be provided.
8. All appropriate permits shall be obtained from the building inspector, city engineer, and city planner prior to operation.
9. The Planning Director and/or City Engineer may establish additional requirements as necessary to minimize hazards and promote efficient traffic circulation on the site.

10. Central loudspeakers and amplified noise levels objectionable at the property line shall be prohibited.
11. No permanent or temporary lighting shall be installed without an electrical permit and inspection.
12. Any outdoor lighting shall be installed to preclude the direct illumination of adjacent properties or the creation of glare from the fixtures beyond the property line or on the street.

#### **D. Real Estate Sales Office.**

1. Permitted in any district for any new subdivision approved in accordance with the Opelika Subdivision Regulations. The office may not contain sleeping or cooking accommodations. A model home may be used as a temporary sales office for the duration of the temporary use zoning certificate.
2. Maximum length of permit shall be one (1) year.
3. Office shall be removed upon completion of the development of the subdivision.

#### **E. Temporary Construction Office.**

A temporary structure or structures for use in connection with a construction project or land subdivision development shall be permitted on the land of the project during the construction period. Temporary buildings related to a subdivision development shall be removed when construction ceases for a period of six (6) consecutive months.

#### **F. Temporary Shelter.**

1. When fire or natural disaster has rendered a single-family residence unfit for human habitation, the temporary use of a mobile home located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional regulations.
2. Required water and sanitary facilities must be provided.
3. Maximum length of permit shall be six (6) months, but the Building Inspection Department may extend the permit for a period or periods not to exceed sixty (60) days in the event of circumstances beyond the control of the owner. Application for the extension shall be made at least fifteen (15) days prior to expiration of the original permit. In no case shall the length of the original permit plus all extensions exceed one (1) year.
4. The mobile home shall be removed from the property upon issuance of any occupancy permit for the new or rehabilitated residence.

#### **G. Temporary Business Uses in Existing Permanent Structures.**

Provisions authorizing temporary business uses are intended to permit a business for a limited time due to inadequate market supply or zoning provisions. Temporary business uses may be authorized and subject to specific limitations and requirements as established by the Chairman of

Planning Commission or his/her designee, Director of Planning, Director of Engineering, and the Chief Building Inspector. The following are requirements for a temporary business license:

1. No temporary business shall conduct business for more than one hundred eighty (180) days. A temporary business license is required and shall expire on the 180th day from the date the temporary business license was issued. No extensions shall be granted. No temporary business license shall be sold, transferred, or assigned by any license holder, or by operation of law, to any other person, group, partnership, corporation or any other entity, and any such sale, transfer or assignment shall be deemed to constitute a voluntary surrender of such license, and such license shall be thereafter null and void. A temporary business license held by an individual in a corporation or partnership is subject to the same rules of transferability as contained above. Any change in the nature or composition of the temporary business from one (1) type of temporary business use to another type of temporary business use shall also render the license null and void. A temporary business license shall be valid only for the exact location specified in the license.
2. If the business owner desires to continue business operations beyond one hundred eighty (180) days a permanent business license is required. The business owner must first obtain conditional use approval from the Planning Commission before a permanent business license is granted. Planning Commission approval must be acquired before the one hundred eighty (180) days expiration date. If applicable, a bond and letter of credit or equivalent shall be submitted covering costs of all required improvements on the property at the time of Planning Commission review.

The Chairman of the Planning Commission or designee, Director of Planning, Director of Engineering, and the Chief Building Inspector shall use the following criteria to determine if a temporary business permit should be allowed:

- a. A temporary business permit may be allowed only in commercial and industrial zoning districts where the proposed use is outright allowed or required to obtain conditional use approval.
- b. The business owner must provide a written narrative explaining that the size of existing facilities does not meet the needs of the business or existing facilities are unavailable.
- c. The temporary business must be compatible with the surrounding uses and not create an adverse effect on adjacent properties.
- d. The temporary business activities and/or display of products must be conducted within an enclosed building.
- e. The proposed site is adequately served by streets having sufficient width and improvements to accommodate the kind and quantity of traffic that such temporary use will or could reasonably generate.
- f. The proposed site has adequate designated parking and loading/unloading facilities to accommodate traffic generated by the temporary use.
- g. The building for the temporary business must meet Opelika Building Codes.

## **SECTION 8.12 ABATEMENT OF USES CREATING HAZARDS OR NUISANCES**

The Board of Zoning Adjustment may require the conduct of any use conforming or nonconforming, which results in unreasonable noise, smoke, gas, vibration fumes, dust, fire, radio interference or explosion hazard or nuisance to surrounding property to be modified or changed to abate such hazard to health, comfort, and convenience. The Board may direct the administrative official to issue an abatement order, but such order, may be directed only after a public hearing by the board, notice of which shall be sent by certified mail to the owners or operators of the property on which the use is conducted in addition to due notice by advertisement in a newspaper.

## **SECTION 8.13 TOWNHOUSE DEVELOPMENT STANDARDS<sup>10</sup>**

The regulations as contained in this section shall be applied to developments involving townhouses. A development plan, satisfying all the requirements of this ordinance shall be submitted to, reviewed by, and approved by the Planning Commission. Information required by Section 8.16.

### **A. Site Plan and Design Criteria, General.**

It is the intent of this ordinance that townhouses, in areas where they are or may be permitted.

1. May be appropriately intermingled with other types of housing; and
2. Shall not form, long unbroken lines of row housing, but shall be staggered, singularly or in pairs, not less than three feet (3') or more than twelve feet (12'); and
3. Shall constitute groupings making efficient, economical, comfortable and convenient use of land and open space and serving the public purposes of zoning by means alternative to conventional arrangements of yards and building areas.
4. Shall provide adequate common open space free of buildings, streets, driveways, or parking areas. The common open space shall be so designed and located that it is easily accessible to all occupants of the project and is usable for open space and recreational purposes. Moreover, the Planning Commission may require that an association of owners or tenants be created for the purpose of maintaining such open spaces. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to maintain said open space for the purposes intended for as long as the existence of the development.

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<sup>10</sup> Date of Amendment: January 8, 2002      Ordinance No. 102-02

## B. Site Plan and Design Criteria, Details.

In line with the general considerations above the following criteria shall be met.

1. **Maximum Units.** Not more than twelve (12) contiguous townhouses, nor fewer than two (2) shall be built in a row with approximately the same front line; however in no event shall the number of units exceed the number allowed in the zone where the townhouse unit is to be constructed.
2. **Minimum Width.** The area on which any townhouse unit is to be constructed shall be twenty (20) feet.
3. **Separation Requirements-interior or Project.** No portion of townhouse or accessory structure in or related to one (1) group of contiguous townhouses shall be closer than twenty (20) feet to any portion of a townhouse or accessory structure related to another group. Where one townhouse group is parallel or within fifteen (15) degrees of being parallel with another townhouse group no portion of one (1) townhouse group shall be closer than thirty (30) feet to another townhouse group.
4. **Yards.** Front, sides and rear yards not less than those permitted on zoning lots for the district shall be provided completely around the townhouse project areas or parcel; Each townhouse shall have one (1) abutting yard, which may be in the required front or rear yard equal to the width of the townhouse and have an areas not less than fifty (50%) percent of the first floor areas of the townhouse, private and reasonable secluded from view or from neighboring property. Such yard shall not be used for any accessory building.
5. **Access Strip.** In addition to the above yard requirements, it is required that the developer provide an unrestricted access strip along the rear lot lines of all contiguous units. This strip shall have a minimum width of five (5) feet and shall run so as to connect each rear lot line with a public way. On interior lots, a connecting strip to public way must extend along side lot lines or through townhouse group separation lot area. No structures of any type shall be allowed on this access strip. Land used in the access strip cannot be included in calculating minimum lot areas.
6. **Group Parking Facilities.** Insofar as practicable, off-street parking shall be grouped in bays, in the interior of the project areas. No off-street parking space shall be more than one hundred (100) feet by the most direct pedestrian route, from a door of the dwelling unit it is intended to serve. Two (2) parking spaces shall be provided for each dwelling unit. Parking bays shall be separated from street paving by curb or by curbed island, in either case the curb shall be a minimum of four (4) inches in width; except in driveway turnouts that will be provided between street paving and parking bays. This arrangement shall be constructed to prevent backing out into street from parking area.
7. **Density.** The density of the development shall coincide with the “dwelling units per acre” requirement as specified in Section 7.3A. according to the appropriate zoning district.
8. **Maintenance.** Provision for the maintenance of all common parking, open access and other spaces and areas shall be included in the plat restrictions of the property. Individual utility connections shall be provided to each townhouse dwelling unit.
9. **Fire Lanes.** No fire lands shall be required be required for a group of no more than six (6) contiguous townhouses; however, the developer shall provide access to the rear of the

project at each end. For townhouses developments consisting of more than six (6) contiguous units, the developers shall provide a fire lane meeting the following minimum specifications.

- a) A continuous fourteen (14) foot drive extending completely around the sides and rear of the townhouse.
- b) A twenty-six (26) foot turn radius to outside of fire lane at each end of the townhouse project.
- c) A ten foot (10) intermediate drive between contiguous units of seven (7) or more.
- d) A curb radius of ten (10) feet at the front street entrance to the townhouse project.

### **C. Design Criteria of Townhouses, Individual Owners.**

In districts where townhouse buildings are permitted and townhouses are to be constructed for sale, each on its own lot, to individual owners:

- 1. Minimum Requirements.** Townhouse developments shall be subject to the minimum requirements specified in the subdivision regulation; such townhouses shall be constructed in accordance with applicable provisions of all codes of the City with no more than twelve (12) units per building, nor fewer than two (2) in a row with approximately the same front line.
- 2. Minimum Width.** The portion of the lot on which any single townhouse is to be constructed shall be twenty (20) feet. There shall be a minimum frontage on a street of not less than twenty (20) feet.
- 3. Minimum Lot Area.** The minimum lot area per townhouse shall be no less than two thousand four hundred (2,400) square feet. The minimum areas required shall be exclusive of any paved parking areas or driveways.
- 4. Separation Requirements-interior of Projects.** No portion of a townhouse or accessory structure shall be closer than twenty (20) feet to any portion of a townhouse or accessory structure related to another group.
- 5. Yards.** On lots containing townhouse dwellings, fronting on a public way there shall be a minimum front yard as required in each zone. A ten (10) feet side yard shall be required at the end of each townhouse building for a total of twenty (20) feet between structures. Each townhouse shall have one abutting yard, which may be within the required front or rear yard, equal in width of the townhouse and have an area not less than fifty percent (50%) of the first floor area of the townhouse, private and reasonable secluded from view from streets or from neighboring property. Such yards shall not be used for any accessory buildings. On corner lots facing or siding on a public street, the side yard minimum shall conform to front yard minimum requirements, satisfying the zone in which development is located.

## SECTION 8.14 HOME OCCUPATION<sup>11</sup>

A home occupation is a gainful occupation or profession conducted by members of a family residing on the premises, and operated entirely within the principal dwelling unit and in such a manner that there will be no external manifestation of the operation of the business outside the dwelling unit. Examples of permissible home occupations include: cleaning services, maid services, landscaping services, handyman services, computer repair, consulting, dressmaking, tailoring, sewing, making custom home furnishings, tutoring, baking, teaching music and the fine arts, photography or art studio, direct selling, insurance salesman, beautician or barber, child daycare for no more than six (6) children and/or meet the State requirements, whichever is more restrictive, professional offices such as attorney, physician or other medical practitioner, architect, planner, engineer, or accountant, and contractors provided no trucks, materials, or construction equipment are kept on the premises. In addition, each home occupation shall be subject to the following limitations:

1. No person shall operate a home-based business without first procuring a permit from the City Planner or his/her designee and a business license from the Revenue Department.
2. The home occupation must be clearly incidental and secondary to the use of the dwelling as a residence. No more than twenty-five (25%) percent of the total floor area of the dwelling shall be used for the home occupation, to a maximum of five hundred (500) square feet.

*At the City Planner's discretion, a floor plan of the residence may be required, indicating the specific location (s) and extent of the business activity.*

3. The exterior appearance of the dwelling unit and/or premises shall not be altered, or the occupation within the dwelling unit conducted, in any manner that would cause the premises to differ from its residential character or from the character of the neighborhood.
4. The home occupation must be operated in its entirety by the person or persons residing in the dwelling unit and no person residing outside the dwelling unit shall be employed to work on the premises.
5. No outdoor display or storage of materials, goods, supplies, or equipment used in the operation of the business shall be permitted outside the dwelling unit. No alteration to any building shall indicate from the exterior that the building is being utilized for any purpose other than a residential unit. One (1) non-illuminated sign having an area of not more than two (2) square feet may be placed flat on a door, wall, or window. No flammable, caustic, or noxious material not commonly found in the home may be stored or kept on the premises.
6. A maximum of one (1) person not residing in the dwelling may engage in the operation of the home occupation.
7. Adequate off-street parking shall be provided for business invitees. However, no commercial vehicles or equipment may be parked or stored on the premises overnight. This shall not prohibit the parking on premises of company vehicles, which are used by an occupant of the dwelling as his or her mode of travel from home to work.
8. The operation of the home occupation shall not involve the sale from the home of any dangerous or deadly weapons such as knives, firearms, or air guns.

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<sup>11</sup> Date of Amendment: July, 15, 2003

Ordinance No. 113-03

Add SECTION 8.14

9. No automobile/truck/boat/vehicle related business is permitted as a home occupation on-site. Vehicle related businesses include but are not exclusive to: vehicle maintenance, repair, renovation, restoration, and/or sales.
10. A home occupation use shall not generate nuisances such as traffic, on-street parking, noise, vibration, glare, odors, fumes, electrical interference, or hazards to any greater extent than that what is usually experienced in the residential neighborhood.

### **SECTION 8.15 VETERINARY CLINIC STANDARDS**

As herein, defined, all veterinary clinics shall meet the following standards:

- A.** All areas for treatment, diagnosis and over-night boarding of animals shall be completely enclosed and heated and air conditioned in order to eliminate noise, odor, and insect problems.
- B.** Fenced outdoor exercise areas shall be permitted provided no animal shall be boarded in such areas or be boarded in areas with direct access to such areas or exercised between the hours of 9:00 p.m. and 7:00 a.m. Such fencing shall be a minimum of six (6) feet in height and shall be opaque or screened with landscape materials approved by the Zoning Administrator.
- C.** Small domestic animals only shall be permitted on the premises and all horses, cows, sheep, goats, pigs, wild animals, food animals and other large animals shall be excluded except in the manufacturing zones.
- D.** No veterinary clinic building or exercise area shall be established closer than one hundred (100) feet to any boundary of property in a residential zone.

### **SECTION 8.16 SITE PLAN REVIEW**

The following information is required for site plan review. (A preliminary/final site plan should provide a site plan at a scale not smaller than one hundred (100) feet to the inch for Planning Commission review).

- A. The legal description of the parcel(s) for which the approval is sought.**
- B. A map(s) of the subject property should provide the following data and information:**
  1. All certifications and indications appropriately indicated;
  2. Boundaries of site;
  3. Municipal boundary lines, section lines, parks, public open spaces or permanent easements, which are related to this property and are able to indicate the location of this property;

4. The location; width and names of existing or previously platted streets, railroads, utilities right-of-ways, and easements;
5. Total acreage or square footage;
6. The location, grades, and sizes of utilities (water, manholes, sanitary sewer, storm drainage, and power), and the dimension and location of easements;
7. Previous topography and proposed profiles of site;
8. Flood hazard area information.

**C. Regarding the proposed use of each parcel.**

1. The size, arrangement and orientation to be used for dwelling purposes or any other purpose as indicated, including the proposed factor of development density.
2. The location, height, configuration, and material of all walls, fences, or other structures need proposed to be used.
3. The location, size and dimensions of all previous or proposed driveways entrances, exits, traffic-circulation patterns, acceleration and deceleration lanes; and the relationship with the site, which the property is located.
4. Landscape plan.

**D. Any applicable covenants or restrictions.**

**SECTION 8.17 CONDITIONAL USE**

**A. Purpose.**

Conditional uses are those uses that may have some special impact when proposed for location in particular zoning district or uniqueness such that their effect on the surrounding environment cannot be determined in advance of the use being proposed in a particular location. At that time, a review of the location, design, configuration, and impact is conducted to determine whether the proposed use should be permitted by weighing public need or benefit against the local impact. The review considers the proposal in terms of existing zoning and land use in the vicinity of the use; planned and proposed public and private developments that may be adversely affected by which it is suggested is necessary or desirable to provide a development that is in the interest of the public convenience or that will contribute to the general welfare of the area or the City of Opelika; and whether and to what extent all steps possible have been taken by the developer to minimize any adverse effect of the proposed use on the immediate vicinity and on the proposed use on the immediate vicinity and on the public health, safety, and welfare in general.

**B. Applicability.**

Any use that is permitted as a conditional use by this ordinance shall comply with this Section. Any permitted use proposed for development at a land use intensity that exceeds the maximum permitted by the district, provided it does not exceed the maximum allowed by this ordinance, shall comply with this Section. Any renovations, reuse, or preservation proposal that includes a change of use that is not allowed by the zoning district in which the structure is located, shall

comply with this Section. Any use that involves filling of a floodplain shall comply with this Section.

### **C. Procedure.**

1. Applications for a conditional use permit shall be submitted simultaneously with an application for a building permit unless prior approval has been obtained. Applications for conditional uses in all districts must contain information as specified in Section 8.16. Applications must be submitted (21) twenty one<sup>12</sup> days prior to the Planning Commission meeting at which they are to be heard.
2. The application shall be denied if the Planning Commission finds either that the application and records fail to establish compliance with the standards made applicable to the proposed location, will be inconsistent with the standards applicable to it pursuant to the provisions of this ordinance. Further, the application shall be denied if the adverse impacts of the development, after taking into consideration any proposals of the applicant and any conditions that might be imposed by the Planning Commission pursuant to the provisions of this ordinance to ameliorate them, outweigh any public or private benefits of the proposal and require denial of the conditional use approval in the interest of the overall public health, safety, and welfare.
3. In order to prevent or minimize adverse affects from the proposed use and development. On other properties in the neighborhood and on the general health, safety, and welfare of the City of Opelika, the Planning Commission may, in approving the application for any conditional use permit, impose such restrictions and conditions on such approval, the proposed use, and the premises to be developed or used pursuant to such approval as it determines are required by the general purposes, goals and objectives of the Comprehensive Plan and this ordinance. All conditions imposed upon any conditional use permit approval, with the exception of conditions made applicable to such approval by the express terms of this ordinance, shall be expressly set forth in the resolution granting such conditional use permits.
4. Within thirty (30) days of the public hearing on the application, unless an extension of this time is agreed to by the applicant, the Planning Commission shall either grant the application for a conditional use permit, grant it subject to conditions, or deny it. The failure of the Planning Commission to act within this time period shall constitute a decision by it that the application be approved.
5. In the event a permit for conditional use is approved or approved subject to conditions, the applicant shall in writing within fifteen (15) days following such decision, acknowledge such approval and unconditionally accept and agree to any conditions imposed on the approval. The City Planner shall then take action to process the application on the zoning certificate for the development to which the conditional use permit applies. In the event such permit is not approved or is approved subject to conditions that are not acceptable to the applicant, the applicant may, within the aforesaid time period, either appeal such decision to Circuit Court or abandon the application at the expiration of this fifteen (15) day period.
6. A conditional use shall expire one (1) year from the date of approval if a valid, current building permit has not been obtained. If the building permit expires or if no building

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<sup>12</sup> Date of Amendment: June 8, 2014

Ordinance No. 111-05

Change # of days for 15 to 21

permit is obtained within a year of being granted approval, then the petitioner shall need to resubmit a conditional use application and comply with the zoning ordinance in effect at the time of the resubmitted before proceeding with the conditional use.<sup>13</sup>

#### **D. Conditions on Conditional Use Approvals.**

Every conditional use permit shall be contingent that the proposed developments fully comply with all requirements of this ordinance and, where applicable, with the Opelika Subdivision Regulations. The violation of any condition contained in a conditional use permit shall be a violation of this ordinance.

#### **E. General Use Standards.**

1. No application for a conditional use permit shall be approved unless the Planning Commission shall specifically find the proposed conditional use appropriate in the location for which it is proposed. This finding shall be based on the following criteria.
2. The proposed use shall be in harmony with the general purpose, goals, objectives, and standards of the Comprehensive Plan, this ordinance, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City.
3. There shall be a community need for the proposed use and a need to provide or maintain a proper mix of uses both within Opelika and also within the immediate area of the proposed use: (a) the proposed use shall not result in either a detrimental concentration of a particular use within the City or within the immediate area; and (b) the area for which the use is proposed is not better suited for or likely to be needed for the uses that are permitted as a matter of right within that district, in light of policies or programs of the City of Opelika.
4. The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or right-of-ways, or other matters affecting the public health, safety, and general welfare, either as they not exist or as they may in the future be developed as a result of the implementation of provisions and polices of the Comprehensive Plan, this ordinance, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City or other governmental agency having jurisdiction to guide growth and development.
5. The proposed use in the proposed area will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, and services specified in this subsection. Where any such improvements, facilities, utilities, or services are not available or adequate to service the proposed use in the proposed location, the applicant shall, as part of the application and as a condition to approval of the proposed conditional use permit, be responsible for establishing ability, willingness and binding commitment to provide such improvements, facilities, utilities, and services in sufficient time and in a manner consistent with the Comprehensive Plan, this ordinance, the other plans, programs, maps and ordinances adopted by the City to guide its growth and development. The approval of the conditional use permit shall be conditional upon such improvements, facilities, utilities, and services being provided and guaranteed by the applicant.

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<sup>13</sup> Date of Amendment: January 8, 2002      Ordinance No. 102-02

## **F. Amendments to Permits for Conditional Uses.**

Following the issuance of a conditional use permit pursuant to the provisions of this ordinance, such permit may be amended, varied, or altered only pursuant to the standards and procedures established by the Article for its original approval.

## **SECTION 8.18 PLANNED UNIT DEVELOPMENT REGULATIONS**

### **A. Purpose.**

The purposes of these regulations are to encourage the appropriate development of tracts of land in all zoning districts sufficiently large to allow comprehensive planning and to provide flexibility in the application of certain regulations in a manner consistent with the general purposes of the Zoning Ordinance, thereby promoting a harmonious variety of uses, the economy of shared services and facilities, compatibility with surrounding areas, and the creation of attractive, healthful, efficient and stable environments for living, shopping and working.

### **B. Definition.**

A planned unit development is a large, unified development of five (5) acres or more adhering to a comprehensive development plan and located on a single tract of land, or on two (2) or more tracts of land which may be separated only by a street or other right-of-way, whose approval would serve to implement the plans of the City of Opelika.

### **C. Applicability.**

Any development meeting the definitions in paragraph (B.) may utilize these Planned Unit Development Regulations and the procedure described in paragraph (L.) and thereby may be eligible for site planning dispensations that may be applicable. If any development is located in either a Gateway Corridor I or a Gateway Corridor II Overlay District, the land use categories of Section 7.3 C. Use Categories shall apply.<sup>14</sup>

### **D. Ownership.**

To qualify as a planned unit development the tract or tracts of land included in such development must be under one (1) ownership or control or must be the subject of a joint application by the owners of all the property included. The holder of a written option to purchase or any governmental agency shall be deemed to be the owner of such land for purposes of satisfying this requirement. Unless otherwise provided as a condition for approval of a planned unit development, the applicant may divide and transfer units of any development for which approval has been granted, provided that the transferee shall complete each such unit, and use and maintain it, in strict conformance with the approved development plan.

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<sup>14</sup> Date of Amendment: May 5, 2009      Ordinance. No. 102-09

### **E. Planned Unit Development Review Criteria.**

A planned unit development may be approved only when the following review criteria are met:

1. The proposal shall produce a functional, enduring and desirable environment, with no significant adverse impacts to adjacent properties.
2. The proposal shall be consistent with the plans of the City of Opelika
3. The design and site planning shall insure compatibility and harmony with existing and planned uses on adjacent properties. Design elements to be considered include, but shall not be limited to, architectural style, placement of buildings upon land, building heights and bulk, off-street parking, open space, privacy and landscaping.
4. The proposal shall insure compatibility and harmony with natural features of the site and adjoining properties. Natural features to be considered include, but shall not be limited to, topography, native vegetation, wildlife habitats and watercourses.
5. The location, design and size of the proposal are such that occupants will be adequately served by existing or proposed facilities and services.
6. The proposal shall provide adequate common open space areas free of buildings, street, driveways, or parking areas. The common open space shall be so designed and located that it is easily accessible to all occupants of the project and is usable for open space and recreational purposes.
7. Off-street parking facilities shall provide parking sufficient for occupants of the development and their guests and shall be a planned part of the development to minimize exposure and impact on surroundings.
8. Perpetual maintenance of all common land and facilities through means acceptable to the City shall be ensured.
9. The location, design and size of the proposal are such that the traffic generated by the development can be accommodated safely, without causing congestion on major streets and without requiring the unnecessary traversing of other local streets.

### **F. Maintenance of Open Space.**

Whenever group or common open space is provided, the Planning Commission or the City Council, as appropriate, may require that an association of owners or tenants be created for the purpose of maintaining such open space. It shall be created in such a manner that owner(s) of property shall automatically be members and shall be subject to assessments levied to maintain said open space for the purposes intended. The period of existence of such association shall be not less than twenty (20) years, and it shall continue thereafter and until a majority vote of the members shall terminate it.

### **G. Performance Bonds.**

The City of Opelika may, as a condition of approval, require a cash bond or surety bond for completion of all or specified parts of the development. The bond shall be in a sum of one hundred (100%) percent of the estimated cost of the work and conditioned upon the faithful performance of the work specified within the time specified.

**H. Development Standards.**

The maximum allowable density shall be based on the overall land area, excluding public streets, rights-of-way and lands, and lands devoted to nonresidential facilities, and shall be equal to the overall density permitted by the applicable zoning district in which the planned unit development is proposed, plus a twenty-five (25%) percent bonus that may awarded by the City Council for a site plan and project that assist the City in achieving the purposes of these regulations. Other design and development standards applicable shall be based on overall aggregate improvements internally distributed to best achieve the purposes of these regulations.

**I. Distribution of Facilities.**

All facilities including off-street parking and loading facilities, usable open space and landscaping, buffering and screening may be located within the development without reference to lot lines or blocks, except that required parking spaces that serve residential development shall be located within two hundred (200) feet of the building containing the living units served.

**J. Waiver of Dimensional Requirements.**

The minimum lot area, width, frontage and yard requirements and maximum height requirements otherwise applying may be waived or modified for purpose of promoting a unified site plan.

**K. Coordination with Other Requirements and Procedures.**

The requirements prescribed in the Planned Unit Development Regulations are intended to be supplementary to and coordinated with those of other sections of this Ordinance and to the requirements of the Subdivision Regulations, which shall also apply to all planned unit developments, which require subdivision review. Subdivision review under the Subdivision Regulations shall be carried out simultaneously with the Planned Unit Development Procedures prescribed hereinafter. The development plans shall be submitted in a form to satisfy requirements of the Subdivision Regulations for preliminary and final maps.

**L. General Procedures.**

Application for a planned unit development shall be made by the owner of the subject property or by his authorized agent on a form prescribed by the City Planner and shall be filed with such Planner. The application shall be accompanied by such information as is required under this procedure and submitted in a quantity specified by the Planner. The Planned Unit Development Procedure shall comprise a three (3) part process: an informational review, a development plan review and a final review.

### **M. Informational Review.**

The informational review is designed to inform an applicant of applicable regulations of the City of Opelika, to inform the City Planner and Planning Commission of the applicant's intentions and to provide an opportunity to identify pertinent considerations associated with a proposed development before a substantial commitment of resources occurs.

1. **Elements of Process.** The informational review process includes the following elements: submission by the applicant of a generalized development plan, an informational review conference held by the City Planner with the applicant and, where required by the City Planner, an informational presentation of the generalized development plans to the Planning Commission.
2. **Required Submission.** An application for the informational review shall be submitted by the owner or his authorized agent on a form prescribed by the City Planner and shall be filed with such Planner. The application shall be accompanied by information specified as follows and by such additional information as required by the Planner.
  - a. A generalized narrative describing the concept of development, including site location, total acreage, proposed uses and activities proposed densities, and physical land alteration required by the development.
  - b. A generalized narrative describing the character and use of the site and the adjoining properties, both as they exist and as proposed, and the relation of such uses to one another and the plans of the City of Opelika.
  - c. A generalized site plan showing the entire parcel with schematic indications of approximate locations of buildings, public and private rights-of-way, parking and loading areas, public and private open spaces, walkways, planting areas, etc.
3. **Informational Review Conference.** Upon receipt of the generalized development plan, the City Planner shall schedule and hold an informational review conference with the applicant. At said conference, the owner or his authorized agent shall present information submitted and receive comments from City staff attending. Representatives of the Planning Commission and the Public Works Department shall attend and, at the discretion of, and as deemed desirable and necessary by the Planner, representatives from other City or public departments, agencies, boards or panels may be invited to attend.

### **N. Development Plan Review.**

The Development Plan Review shall provide an opportunity for detailed review of proposed developments by Opelika city officials and the general public.

1. **Elements of the Process.** The development plan review process includes the following elements: Submission of a detailed Development Plan by the applicant, a Development Plan review by various city departments and other public and private agencies and departments as appropriate, public review of an response to the Development Plan through one (1) or more public hearings, and formal action by the Planning Commission on the Development Plan.

2. **Application.** All applicants submitting proposals for planned unit development shall prepare and submit to the City Planner a Development Plan within one (1) year from the date of the informational review conference.
3. **Content.** The Development Plan shall be based on the generalized Development Plan presented in the informational review. All elements required within the Development Plan shall be sufficiently detailed to indicate intent and impact. The following shall be included in the Development Plan:
  - a. An overall development scheme stating the development intentions of the landowner, including but not limited to the following: a statement of location and intensity of proposed uses and activities, a physical description of proposed facilities accommodating such uses, a statement of location and general configuration of lands to be dedicated for public open space and other public use, a general designation of utilities, and a general statement of form of site management proposed for common open spaces and facilities.
  - b. A set of drawings of the entire development, accompanied by narratives as appropriate, indicating: perimeter boundaries of the site; streets and driveways, sidewalks and pedestrian ways and off-street parking and loading areas; location and approximate dimension of buildings and other structures, including activities and the number of living units; reservations for public uses and open spaces; major landscaping proposals; and renderings clearly establishing the scale, character and relationship of buildings, streets and open spaces.
  - c. A set of maps and statements providing information on the character and use of the surrounding area within three hundred (300) feet of the limits of the proposed development.
4. **Development Plan Review Conference.** Within fifteen (15) days of receipt of the completed Development Plan, the City Planner shall schedule and hold a Development Plan review conference the purpose of which is to provide an opportunity for the applicant, the Planning Commission, the Public works Department and representatives from other departments or agencies invited by the Planner to review the Development Plan regarding compliance of various elements proposed with applicable planning and zoning regulations of the City.
5. **Public Hearing.** Within forty (40) days but not less than fifteen (15) days following the Development Plan review conference, a public hearing shall be held before the Planning Commission for formal action on the proposed development. As appropriate, this hearing may include and incorporate any hearing required for compliance with the Subdivision Regulations. Within forty (40) days following said hearing, the Planning Commission shall render its decision. Action taken by the Planning Commission may be a recommendation of any of the following:
  - a. Approval.
  - b. Conditional Approval, wherein certain changes are required, or certain conditions of approval have been imposed, as deemed necessary and desirable in the judgment of the Planning Commission to ensure conformity to applicable criteria and standards.
  - c. Denial, when the Planning Commission finds that the proposed development does not meet applicable criteria and standards.
6. **The Planned Unit Development.** Recommendation shall then go before the City Council as an ordinance following the applicable procedures of the Code of Alabama and this

ordinance following the applicable procedures of the Code of Alabama and this ordinance. Action taken by the City Council shall be deemed final and may be one of the following:

- a. Approval.
- b. Conditional Approval, either as recommended by the Planning Commission or whiz other conditions.
- c. Denial.

If approved, such change shall be noted on the Zoning Map as "PUD" and the development plan shall be on file in the City Clerk's office, with copies provided to the City Planner, City Engineer, and Building Official.

## **O. Final Review**

Final Review enables involved city departments to review the Final Development Plan prior to issuance of applicable permits.

- 1. Elements of the Process.** Final review includes: submission of the Final Development Plan by the applicant to the City Planner, and administrative review of the submitted plan by the Planner, Building Official and City Engineer for compliance with applicable regulations and codes, and any conditions of approval as appropriate.
- 2. Required Submission.** Within 18 months of approval of the Development Plan by the Planning Commission, the applicant shall file with the Zoning Administrator a Final Development Plan for the entire development or, when submission in stages has been authorized by the Planning Commission pursuant to its review of the development plan, for the first unit or stage, of development.
- 3. Contents.** The Final Development Plan shall conform in all major respects with the approval Development Plan. In addition to all elements specified hereinabove for the Development Plan, the Final Development Plan shall include, in maps and narratives as appropriate, the following elements:
  - a. The location of water, sewerage and drainage facilities.
  - b. Detailed building and landscaping plans and elevations.
  - c. Character and location of signs.
  - d. Plans for street improvements.
  - e. Grading or earth-moving plans.
  - f. Application for any permits required by the City of Opelika.,
  - g. Legal documents required for the dedication or reservation of group or common open spaces, for the creation of a nonprofit owners association, and/or for performance bonds.
  - h. Changes, if any, as required by the City Council as conditions for its approval.
  - i. As appropriate, the Final Development Plan may be submitted concurrently with a final subdivision map and a zone change application.
- 4. Noncompliance.** In cases where the City Engineer, Building Official, City Planner, or Fire Official individually or jointly find any major departure from applicable criteria or standards or from the approved Development Plan, the Final Development Plan shall be found in noncompliance and thereby shall be denied.

## **P. Appeals.**

An appeal from the decision of the City Planner as to noncompliance may be made to the Board of Adjustment pursuant to their appeal procedure. In considering such appeal, the Board shall determine whether the proposal conforms to the requirements for compliance and may approve or disapprove the application or require such changes therein or impose such conditions of approval as are in its judgment necessary to ensure compliance to the Development Plan and such other standards, criteria and regulations considered applicable.

## **SECTION 8.18.1 PLANNED RESIDENTIAL DEVELOPMENT (PRD)<sup>15</sup>**

### **A. Purpose.**

The intent of this section is to provide alternatives to the conventional residential development regulations that are permitted in Opelika's *Land Development Regulations* protecting existing land uses and property values. This section permits greater flexibility in residential design in order to encourage innovative residential plans, promote superior residential developments, and offer neighborhood amenities such as usable open space, designated recreational areas, sidewalks, decorative street lighting, and streetscapes. The Planning Commission will determine if the application, subdivision plan, and site design conform to the requirements of these regulations and that the development will accomplish the following purposes:

1. To ensure compatibility is achieved with adjacent land uses that differ in function, scale, and intensity<sup>16</sup> or with future adjacent land uses based on adjacent zoning districts. Compatibility is achieved when adjacent land uses do not create adverse effects upon one another. The subdivision layout and design should reflect the inherent character of the existing land uses yet demonstrate distinctive features that will give the development a sense of identity. In areas where different uses abut, a variety of measures may be employed to ensure compatibility including: the use of adequate setbacks, landscaping, perimeter buffers, and building height considerations.
2. To conserve and preserve land to assure that its development will best maintain or enhance the appearance, character, natural beauty and historic interest of an area;
3. To preserve land for common area for neighborhood amenities;
4. To encourage development in such a way as to promote the most appropriate use of land, considering its particular size and topography, to protect natural drainage systems, streams, wetlands, floodplains, and to properly manage for stormwater runoff and erosion and sedimentation control.

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<sup>15</sup> Date of Amendment: November 6, 2001 Ordinance No. 165-01

<sup>16</sup> Intensity refers to comparing the impact of a proposed development with adjacent land uses and zoning districts by evaluating characteristics such as the number of dwelling units per acre and amount of site coverage. Scale and bulk refers to dwellings that are of reasonable proportions (size, height) to existing dwellings and dwellings that are reasonably consistent and compatible with a style and the character in the vicinity.

## **B. Permitted Uses.**

Single, two (2) family and multiple-family residential dwellings or a combination thereof may be allowed with conditional use approval. However, at least seventy percent (70%) of the total number of dwelling units must be single-family detached residence and no single multi-family dwelling complex shall be designed to house more than four (4) households. Detached residential dwelling units may be required in lieu of attached multi-family units when determined to be in the interest of the neighborhood.

A PRD may include accessory commercial and office uses, as approved by the Planning Commission, provided such uses are of the size and capacity to meet the needs of the occupants of the development. The nonresidential use should be primarily for the service and convenience of the residents in the PRD. Each property owner of the PRD shall be notified by certified mail about Planning Commission review of a proposed nonresidential use. A free standing nonresidential structure must be designed to reflect the residential character of the PRD; one (1) identification sign no larger than four (4) square feet shall be permitted mounted on the exterior wall; freestanding signs are prohibited; No building permit for an accessory commercial use will be issued until sixty percent (60%) of the PRD's dwelling units have been issued a certificate of occupancy.

Standards for retail and office use shall require the development to contain a minimum of fifty (50) dwelling units; the total floor area of all commercial and office uses in the development shall not exceed ten (10%) percent of the total floor area of all dwelling units, or fifteen thousand (15,000) square feet, whichever is smaller; the total floor area of any single establishment shall not exceed three thousand (3,000) square feet; and the land uses shall be limited to: offices, financial institutions, retail shops, personal service establishments, and restaurants without drive-thru windows.<sup>17</sup>

## **C. Conditional Use Approval.**

Conditional use approval is required for PRD's in the R-3, R-4, R-4M, R-5, R-5M zoning districts, and those residential zones in the GC-2 Overlay Zone. PRD's are prohibited in the R-1 and R-2 zones and the GC-1 Overlay District. During conditional use review the Planning Commission may impose reasonable restrictions, conditions, or standards herein may be modified for applications that demonstrate a high quality PRD containing creative planning concepts and housing designs.

## **D. PRD Size.**

A minimum PRD area of 4 acres shall be required.

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<sup>17</sup> Date of Amendment: November 7, 2007 Ordinance No. 118-07

**E. Density.**

No more than eight (8) single family dwelling units per acre shall be allowed. Density maybe calculated from the gross land area of the PRD including right-of-way within the PRD that is used for through circulation.

**F. Lot Coverage.**

No single family dwelling shall cover more than fifty percent (50%) of the lot area.

**G. Lot Size.**

Minimum lot size for single-family detached units shall be six thousand (6,000) square feet.

**H. Lot Width.**

Minimum lot width for single-family detached units shall be sixty (60) feet.

**I. Minimum Setbacks.**

Front setback – twenty (20) feet, Side Setback - five (5) feet or zero (0)<sup>18</sup>, Rear Setback – twenty (20) feet. No variances shall be granted for yard setbacks. Setbacks from existing collector/arterial streets outside the PRD shall be 40 feet. Front yard setbacks shall be staggered by a minimum of five (5) feet; every third home may have the same front yard setback. Side yard setbacks between single family and multi-family units within the PRD shall be equal to the height of the taller building or twenty (20) feet, whichever is greater. A minimum forty (40) feet setback shall be required around the exterior of multi-family units of the PRD that abuts a residential zoning district. Decks/balconies shall be located no closer than fifteen (15) feet from any side property line.

**J. Height.**

Maximum building height shall be forty-five (45) feet.

**K. Multi-Family Units.**

Multi-Family Units within a PRD shall follow requirements of Section 8.13 *Townhouse Development Standards* unless changes are noted herein.

**L. Landscaping.**

Section X *Landscape Regulations* shall be followed for PRD's. For each multi-family unit contained within a PRD, Section X regulations shall be followed independently. A residential

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<sup>18</sup> Date of Amendment: November 7, 2007 Ordinance No. 118-07

buffer or perimeter buffer as required by the Planning Commission shall be required for all PRD's along the perimeter of the PRD and along arterial and collector streets.

#### **M. Streetscape.**

A minimum of one (1) street tree shall be required on each lot. On a corner lot, a minimum of two (2) street trees shall be required. Street trees shall be spaced as uniformly as possible with variances allowed for streetlights, driveways, and other infrastructure components. Trees shall be planted on private property not on right-of-way. At a minimum the front and side yards of each lot shall be sodded.

#### **N. Entrance Features.**

One (1) ground mounted (monument) sign (maximum 40 square feet) for each PRD or a ground mounted sign for each arterial/collector entrances shall be installed. Signs shall be installed in a landscaped median or on either side of the entrance road. Sign materials and design shall be approved by the Planning Commission. Entry landscaping shall meet the minimum requirements of one (1) canopy tree with the remaining area filled with shrubbery and complimentary ground cover. Plant sizes shall meet requirements stated in Section X *Landscape Regulations*.

#### **O. Maintenance Requirements.**

The developer shall be responsible for the installation of landscaping on each lot, entrance ways, perimeter buffer, and the right-of-ways of arterial, collector, and residential streets within or abutting the PRD.

The developer shall be responsible for landscaping the detention pond (sod only) and other common areas.

The developer shall be responsible for sidewalk installation.

The developer shall establish who shall own and be responsible for maintenance of the landscaping, entrance ways, open space, retention area, and sidewalks as shown on the final PRD plan. The developer shall designate ownership and maintenance responsibility on the final PRD plan i.e., PRD is privately owned (the developer or PRD owner(s)) or commonly owned (homeowner's association). Responsibility for maintenance shall be documented and recorded on the approved final plat. The developer shall record covenants and restrictions that provide maintenance procedures if the said maintenance areas are owned by a homeowner's association.

#### **P. Streets.**

Minimum street width shall be twenty-four (24) feet. A fifty (50) feet right-of-way shall be provided. The City's street circulation system is a hierarchy of arterial and major/minor collector streets that provide access to residential developments that are located on local/residential streets. Each lot shall have access from a local/residential street. Permanent cul-de-sacs shall not serve more than twenty-five percent (25%) of all lots in the PRD.

Privately owned and maintained streets may be approved, if streets shall be constructed to City standards, streets are not through streets, and the streets shall be dedicated to the PRD homeowners/landowners association. A statement on all property deeds abutting the street must state that the street is private and will not be maintained by the City and if street is dedicated to the City the homeowners/landowners association of the PRD shall pay the cost to bring street to City standards.

#### **Q. Sidewalks.**

Sidewalks shall be provided on at least one (1) side of each street within the PRD. The sidewalks shall be at least four (4) feet wide. The developer shall be responsible for sidewalk installation.

#### **R. Parking.**

For single-family detached dwellings, a minimum of two (2) parking spaces located behind the front building setback line and enclosed in the primary dwelling or as a detached enclosed garage shall be provided. In addition, there shall be two (2) paved parking spaces provided behind the front property line for the purpose of allowing on-site stacking or maneuvering to the enclosed spaces.

For each enclosed parking and stacking parking space, a minimum size of nine (9) feet wide and twenty (20) feet long shall be required. Required enclosed parking and stacking spaces shall remain clear of any encroachments. No parking of recreational vehicles, motor homes or towed trailers shall be permitted within the required setback area.

#### **S. Utility lines.**

Electric, telephone, outdoor lighting, cable TV distribution systems, and all other primary and service lines shall be installed underground. The developer shall coordinate subdivision design with the utility companies to insure adequate and suitable areas for underground installation.

#### **T. Street Lighting.**

Lighting along all public streets shall be in conformance to the Utility Company's standards and installed at developer expense. The developer shall provide decorative lighting approved by the Planning Commission.

#### **U. Open Space.**

The intent of common open space areas within a PRD is to enhance the natural features of the site, minimize environmental degradation, and reserve areas for common and useable open space. Common open space shall be an integrated with the total PRD development by utilizing and preserving existing site amenities and minimizing the disturbance of the natural environment. Natural drainage areas shall be retained. Environmentally sensitive areas (streams, wetlands) shall be preserved and maintained as private open space. Significant stands of trees

and individual trees shall be preserved. Drainage areas shall be incorporated as aesthetic amenities and/or designated open space trails. Improvements in the common open space must be shown on the site plan and installed by the developer. The developer must demonstrate how the PRD will comply with the above standards through the design and layout of the proposed development and contours shown on the final grading plan.

Useable open space area is defined as an area that is capable of being used and enjoyed for passive recreation (such as walking or jogging) and that if left in its natural or undisturbed state (from the date development began), is consistent with the objective of providing passive recreational opportunities. Usable open space area shall have a minimum area of ten-thousand (10,000) square feet. A sidewalk constructed at least four feet wide running along a street may be designated usable open space. A walking or jogging trail maybe cut from an wooded area that is to be designated usable open space or if not wooded at the time of development, is properly vegetated and landscaped with the objective of creating a wooded area. All usable open space areas shall be accessible by sidewalk from the residential developed portions of the PRD.

Maintenance of common and useable open space areas and sidewalks shall be the responsibility of the PRD owner(s) or homeowners association as designated by the developer. The developer shall record covenants and restrictions that provide maintenance procedures for the common and useable open space areas to ensure open spaces are maintained and remain undeveloped. Failure to maintain commonly owned land shall be declared a public nuisance. The City Administrator, or his designee, may, after giving proper notice in accordance to procedures established by the Weed Abatement Board, cause the necessary work of maintenance or repair and the costs shall be assessed against the owner of the PRD common open area i.e., developer, Homeowner's Association, or owner(s) of the PRD.

PRD's providing two (2) or more attached dwelling units shall provide open space that is adjacent and accessible from the units. The minimum open space area shall be three thousand (3,000) square feet per dwelling unit. In accordance to Section X *Landscape Regulations*, a residential buffer shall be installed between the multi family units and single-family unit.

## **V. Architectural Design.**

The architectural design of dwellings should create visual variety, as well as promote an integrated character for the PRD neighborhood. The objective here is to provide a variety of exterior home models that demonstrates neighborhood continuity and avoids monotony. All proposed exterior home models (front facades) shall be distinguished with different exterior elevations that meet planning commission approval. The planning Commission may require changes in materials, building height, building projections into the vertical and horizontal plane, or other front façade changes necessary to meet the intent of this section. In no event shall the front façade of a single-family dwelling be in one (1) continuous vertical or horizontal plane. All home façade models shall have a distinctly different front elevation that meet at least two (2) of the criteria below:

1. Different roof forms/lines/profiles. Example: Roof ridges that change elevations or turn a corner or providing front elevation dormers. Roof slope minimum 5:12 pitch.
2. Different facade compositions consisting of

- a. Different window and door style and placement. Example: Bay or box window minimum five (5) feet wide and minimum sixteen (16) inch projection from façade **and**
- b. Different garage and entryway locations. Example: side or rear loaded garages; projecting or recessing entryways from the front elevation.
- 3. Different entry treatments and locations. Example: Providing porches, columns.
- 4. different number of stories

A minimum of four (4) different front exterior elevations shall be built on a street with twenty-five (25) homes or more. For developments less than twenty-five (25) homes there shall be a minimum of three (3) different exterior elevation models. No single family dwelling unit with the same front elevation shall be built on adjacent lots, nor shall more than thirty percent (30%) of the same front elevation be built on a street. Adjacent lots are any lots that adjoin or share any side lot line or lots whose front elevations face each other. Two (2) lots face each other if their front property lines overlap.

Note: Changing roof or siding materials and colors, adding garages, providing "mirror images" of models, or different elevations of the same model do not constitute different front elevation models. Homes within the development should be of similar type and size and be designed so that streetscapes are unified and similar. The architectural appearance of any proposed dwelling shall not vary against the appearance of dwellings in an adjacent neighborhood as to cause substantial depreciation in the property values within the adjacent neighborhood.

#### **W. Accessory Structures.**

Detached accessory structures, customarily used for yard and garden tool storage or a workshop, shall conform to the architectural of the primary dwelling and consist of similar materials, form, and color of the primary dwelling. Accessory structures shall be architecturally integrated and attached to the primary residence and shall. Accessory units shall not be built in any front or side yard. Structural improvements allowed in the rear yard shall provide the occupant with useable space for recreational purposes. Examples of rear yard improvements that meet the intent of this section include swimming pools/spas, patios, and decks.

## **X. Application Process.**

A rezoning application and site plan based on the requirements in Section 8.16 entitled Site Plan Review shall be submitted to the Planning Commission for review and recommendation. The City Council shall either approve or deny the rezoning petition; and may place conditions on the site plan if the rezoning petition is approved.<sup>19</sup>

Prior to submitting a formal application for Planning Commission review under these provisions, the applicant shall hold a site plan review conference with City staff.

1. The applicant shall contact the City Planning Department and set a date for the review conference. The Planning Department shall be responsible for notifying and inviting all applicable City departments to the review conference.
2. The purpose of the review conference is to obtain a mutual understanding of the application requirements and process, to provide City staff with preliminary information on the proposed project, and to discuss issues pertaining to the design of the proposed PRD development.
3. At a minimum of two (2) workweeks before the review conference, the applicant shall permit City staff to visit the proposed PRD site for a preliminary assessment of site conditions.
4. At the review conference, the applicant shall provide the staff with a description of the scope and nature of the proposed PRD. In addition, the applicant shall also provide a non-engineered drawing of the proposed PRD that shows the general road layout, lots, and the location of various residential lands uses (single and multi family units).
5. At the review conference, staff and the applicant shall discuss issues related to the development's need for utility services (including water, drainage, and sewer), community facilities (e.g., fire and rescue), streets, open space, building codes, bonds for improvements, and other similar issues. City staff shall provide comments and suggestions concerning applicable codes and regulations at the review conference.
6. Within twelve (12) months of the last review conference, the applicant must submit a master plan to the planning commission that includes information required in this section. If the applicant does not submit a preliminary master plan within the twelve (12) month time frame another review conference may be required. After discussing the PRD with City departments, the Planning Department shall notify the developer if a review conference is necessary.
7. The master plan, application, and attached information submitted for Planning Commission review shall constitute as a binding PRD plan. The master plan must reflect the verbal and written comments from the review conference(s). The master plan must include in addition to requirements of Section 8.16 *Site Plan Review* the following:
8. The existing site conditions including those significant natural features reserved for open space as stated in this section including drainage ways, wetlands, streams with buffer areas, significant stands of trees, large individual trees, and areas of particular horticultural/landscape value.
9. Common and useable open space reserved for the use of the occupants of the PRD.

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<sup>19</sup> Date of Amendment: November 7, 2007 Ordinance No. 118-07

- a. All uses proposed for the PRD, show location of different dwelling units with building footprints.
- b. Provide at least four (4) exterior elevation models (front façade renderings) for single-family homes, multifamily dwellings, other structures proposed to be constructed on the site. The architectural theme and exterior materials used shall be stated, examples submitted if applicable. Drawings of the ground mounted sign shall be submitted for Planning Commission review.
- c. For the entire PRD and each phase of the PRD, calculations of requirements described in this section shall be shown including location and size of common open space areas (natural or recreation areas) dedicated or reserved as natural and undisturbed areas, landscape/buffer areas, and pedestrian circulation system.
- d. A statement of the methods and agreements necessary to govern the maintenance of all common open spaces;
- e. List all improvements that will be covered under a bond.
- f. A development time schedule that indicates the location, extent, and sequence of development.

The Planning Commission shall review the master plan and upon conditional use approval, the master plan shall be final and binding. Following approval, the applicant shall be required to submit a site development plan with required conditions/requirements added to the plan, if applicable, before a final plat is issued.

#### **Y. Revisions.**

If the applicant makes major revisions to the preliminary master plan after conditional use approval, the plan shall go back to the planning commission for further review.

Major revisions to the final master plan shall include, but are not limited to, substantial changes in the density or lot coverage of the development; the circulation pattern or access; the mixture of dwelling units or land uses; the open space, landscaping, or buffering; or any other changes that are a major divergence from the final master plan. Additions to single family dwellings up to two hundred (200) square feet are not declared major revisions.

#### **Z. Failure to Obtain a Building Permit.**

Failure of the applicant to obtain a building permit for at least one (1) phase of the PRD within twelve (12) months of Planning Commission approval of the master plan shall nullify the approval.

## **SECTION 8.19 MOBILE HOME SITTING STANDARDS**

Where mobile homes are permitted on residential lots not in a mobile home park or subdivision the following standards shall govern their appearance and sitting on the lot:

- A.** Exterior siding should not have a high gloss finish and should be residential in appearance, including, but not limited to clapboards, simulated clapboards such as conventional vinyl or metal siding, wood shingles, shakes, or similar material, but excluding smooth, ribbed, or corrugated metal or plastic panels. The exterior covering material must extend to the ground except that, when a solid concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation.
- B.** The home should be placed on a permanent foundation that complies with the City's building code for residential structures.
- C.** The hitch must be removed.
- D.** The unit must be oriented on the lot so that it meets all lot and area requirements of the Zoning District. Where possible it should be located with its long axis parallel with the street.
- E.** The lot must be landscaped to ensure compatibility with surrounding properties.
- F.** The home must be a least twelve (12) feet in width.
- G.** All fuel oil supply systems shall be constructed and installed within the foundation wall or underground within all applicable building and safety codes except that any bottled gas tanks may be fenced so as not to be clearly visible from the street or abutting properties.
- H.** Only one (1) mobile home per lot will be permitted.

## **SECTION 8.20 NON-CONFORMING USES AND NON-CONFORMING STRUCTURES<sup>202122</sup>**

The following rules apply to non-conforming uses and non-conforming structures in the City of Opelika.

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<sup>20</sup> Date of Amendment: January 8, 2002      Ordinance No. 102-02

<sup>21</sup> Date of Amendment: September 19, 2000      Ordinance No. 124-00

<sup>22</sup> Date of Amendment: August 20, 1996      Ordinance No. 121-96

### **A. Continuance of non-conforming land uses and non-conforming structures.**

Non-conforming land uses and non-conforming structures are declared by this ordinance to be incompatible with permitted uses/conforming structures in the districts in which they are located. However, to avoid undue hardship, the lawful use of any structure or land use at the time of the enactment of this ordinance may be continued even though such use or structure does not conform with the provisions of this ordinance except that the non-conforming structure or land use shall not be:

1. Changed to another non-conforming use or allowed use unless such use/structure shall be in complete compliance with the regulations (i.e. including parking requirements, landscaping requirements; etc.) governing the district' within which said use/structure is located;\*
2. Reconstructed after removal unless such reconstruction shall in complete compliance with the regulations governing the district within which said use/structure is located;
3. Repaired; rebuilt or altered after damage exceeding sixty percent (60%) of its cost at the time of destruction. Reconstruction to begin within six (6) months after damage is incurred. The provisions of this subsection shall not apply to any, residential unit;
4. Enlarged or altered in any way which increases or decreases the amount of gross floor area of a structure or building unless such use/structure shall be in complete compliance with the regulations (i.e. including parking requirements landscaping requirements, etc.) governing the district within which said use/structure is located or unless enlargement or alteration is required by the' building codes.\*
5. Established after discontinuance unless such establishment shall be in compliance with all regulations governing the district (i.e. parking, landscaping requirements, etc.) within which said use/structure is located and any special regulations affecting that use/structure. Failure to obtain a business license, or closure for more than twelve (12) consecutive months shall constitute discontinuance; but the Board of Adjustment may extend by an additional six (6) months if a request is based upon a catastrophic event. If the actual operation of a legal non-conforming use of a structure, land, or structure and land ceases for a continuous period of twelve (12) months, the legal non-conforming use shall be deemed to be abandoned. Any and all subsequent use of the structure and land shall conform in all respects to the provisions of the Zoning Ordinance. Should the property owner, operator, or any other person dispute whether or not the legal non-conforming use has in fact been abandoned, the Board of Adjustment shall determine the length of the abandonment. Notwithstanding the foregoing, if at any time any structure in existence at the time any provision of the Zoning Ordinance becomes applicable to it, which does not conform to the Zoning Ordinance be damaged or destroyed by fire, explosion, act of God or act of public enemy, the land and structure shall be subject to all regulations specified in the section, except that the Board of Adjustment may extend the period of non-use from twelve (12) months to eighteen (18) months<sup>23</sup>.\*

**\*Note:** Unless physical constraints (lot size, existing pavement existing: building, etc.) prohibit the site from coming into compliance. If physical constraints limit the use/structure from coming

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<sup>23</sup> Date of Amendment: February 1, 2011 Ordinance No. 101-11

into compliance, the proposed use must meet the requirements as much as physically possible. A new use in an existing building may be exempt from the natural materials exterior requirement of the Gateway Ordinance, if it is determined by the Planning Commission that no net improvement will result from this requirement. If the developer chooses to change the façade of the building then it will need to comply with the exterior materials made to a site on a case-by-case basis (i.e. new paint, replacing broken glass, trash removal, landscaping, etc.) If parking requirements, landscape requirements, etc. cannot be met prior to being issued a business license then a bond, letter of credit and/or affidavit may be required to ensure that these requirements will be met in a timely fashion. The Planning Commission may determine it necessary to re-review a use, after one (1) year or some other set period of time.<sup>24</sup>

**B.** Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof found to be structurally unsound by the Building Inspector, nor the expansion, enlargement, or replacement of any non-conforming single family-residential dwelling as defined by this ordinance nor the replacement of a manufactured home (the home must meet the 1976 HUD standards).<sup>25</sup>

**C. Nonconforming lots of record.**<sup>26</sup>

The purpose of this provision is to permit utilization of recorded lots that lack adequate lot area and/or lot width as long as reasonable living standards can be provided. The following rules apply to non-conforming lots of record in the City of Opelika.

A lot in a zoning district permitting construction of a single family dwelling that was on record at the Lee County Court House prior to the adoption of this Ordinance (October 19, 1999) and which does not meet the applicable minimum requirements for lot area and/or lot width of the zoning district in which it is located may be utilized as a building site for a use permitted within that district provided that:

1. The building shall be placed on the lot in such a way that the required building setback yards can be provided or can be provided within twenty percent (20%) of each required setback lines. In no case shall the width of any side yard be less than ten (10) feet or any rear yard be less than twenty (20) feet. The front yard setback requirements shall not apply to any lot where the average depth of front yard setbacks of existing residences located within one hundred (100) feet of each side of such lot and within the same block and zoning district, and fronting on the same street of such lot is less than the minimum required front yard depth. In such cases, the minimum front yard shall be the average to the existing front yard depths of the existing residences.
2. In an R-2 zoning district, the maximum building area may be increased by fifteen percent (15%) (from 25% to 40%) if building setback yard requirements described in A. above are met.
3. In an R-2 zoning district, the width of the lot measured at the building setback line shall be at least seventy percent (70%) of that required by the terms of this Ordinance.

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<sup>24</sup> Date of Amendment: January 8, 2002      Ordinance No. 102-02

<sup>25</sup> Date of Amendment: September 19, 2000      Ordinance No. 124-00

<sup>26</sup> Date of Amendment: October 19, 1999      Ordinance No. 124-99

4. If two (2) or more contiguous vacant lots of record established prior to the effective date of this ordinance are in a single ownership, such lots, shall be re-platted into lots which meet the applicable minimum lot area, lot width, and yard setback requirements of the zoning district in which the lots are located. A plat showing re-division of the lots shall be recorded at the Lee County House before a building permit for said lot(s) is issued.

In a case where the strict application of the above provision would result in an undue hardship, the Board of Zoning Adjustment may grant a variance.

## **SECTION 8.21 HEIGHTS**

Height limitation shall not apply to church steeples, barns, silos, farm structures, chimneys, flagpoles, public utility poles, radio and television towers and aerials, cooling towers, and water tanks.

## **SECTION 8.22 RECREATIONAL VEHICLE PARK DEVELOPMENT STANDARDS<sup>27</sup>**

In order to provide for a clean, safe and healthy living environment for recreational activities in Recreational Vehicle Parks the following standards are to guide the development of RV parks. Plans meeting these minimum specifications will be approved by the Planning Commission in those zones permitting conditional use for Recreational Vehicle Parks.

### **A. Location Requirements.**

All recreational vehicles shall be placed only in approved recreational vehicle spaces in RV parks or designated spaces at mobile home parks. The storage of unoccupied recreational vehicles shall be permitted only in those areas designated for storage on the approved final site plan.

### **B. Standards for Design.**

#### **1. Minimum Development Park Site Standard:**

- |  |         |
|--|---------|
| a. Development site area                       | 3 acres |
| b. Street frontage                             | 60 feet |
| c. Perimeter setback                           | 20 feet |
| d. Front yard setback                          | 50 feet |
| e. Open space (exclusive of perimeter setback) | 10%     |

#### **2. Minimum Lot Standard:** Each lot established in a recreational vehicle park shall meet the following size requirements:

- |              |                    |
|--------------|--------------------|
| a. Lot Size  | 2,100 square feet. |
| b. Lot Width | 35 feet            |

#### **3. Setback:** Minimum service building front yard setback shall be fifty (50) feet from the property line.

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<sup>27</sup> Date of Amendment: September 1, 1992    Ordinance No. 131-92    Add Section 8.22

4. **Access:** Recreational Vehicle Parks shall be so located and designed that no entrance or exit shall require movement of traffic to or from the recreational vehicle park through a residential subdivision.
5. **Parking Requirement:** Each recreational vehicle lot shall contain a stabilized level vehicle parking pad of a suitable all weather wearing surface material. The parking shall be located at least five (5) feet from a designated lot line.  
Two (2) parking spaces per lot shall be provided which can be part of the parking pad. Parking spaces shall be at least nine (9) by eighteen (18) feet in size. No parking is allowed on the streets or roads fronting the recreational vehicle lot.  
In addition, the park shall provide adequate paved parking spaces for all service buildings or recreational facilities. The total parking requirement ration is one (1) parking space for every (5) recreational vehicle lots.
6. **Utilities: utilities shall be provided as follows:**
  - a. Sanitary facilities shall be provided in accordance with the requirements of the State of Alabama and the County Health Department. The location of sanitary facilities needs to be indicated on the plan and marked on the site.  
If a mobile home park designates more than five (5) lots for recreational vehicle, it shall provide adequate sanitary facilities for the occupants of the recreational vehicle lots.
  - b. Each recreational vehicle lot shall be provided with an individual service line delivering safe, pure, potable water with a cut-oil installed on each lot.
  - c. Each recreational vehicle lot shall be provided with an individual electrical service mounted on a pole or pedestal and shall have a disconnecting means consisting of a circuit breaker or a switch and fuses housed in a panel approved for exterior use. A minimum combination of fifty (50) AMP must be provided for each recreational vehicle lot.
7. **Garbage and Trash:** Central trash collection points shall be completely screened from view from outside the park.
8. **Site Conditions:** Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The RV spaces shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion of the park subject to flooding, subsidence, or erosion shall be used for any purpose which would expose persons or property to hazards. To this end, all recreational vehicle spaces which are located in any designated flood zone shall conform to Section 7.5 Flood Plain Overlay District.
9. **Identification:** Recreational vehicle lots shall be plainly staked off and marked. Each lot shall be permanently numbered with minimum 2-1/2" high numbers and/or letters so they may be easily read from the street. All lot numbers shall be approved by the Fire Department.
10. **Facilities and Equipment:** All facilities and equipment on site must meet the Fire Safety Standards latest edition, NFPA 501 D Standards for Recreational Vehicle Parks and Campgrounds.

### **C. Street Design.**

Vehicular use areas shall be paved and shall be clearly marked as to internal circulation and direction of travel. Pavement widths for travel lanes shall be as follows:

- a) One-Way travel lane            14 ft.
- b) Two-Way travel lane            22 ft.
- c) Cul-de-sac diameter            80 ft.

### **C. Use Restrictions.**

1. Permanent Occupancy Prohibited: No recreational vehicle shall be used as a permanent place of residence, dwelling, or business. Continuous occupancy extending beyond three (3) months in any twelve (12) month period shall be considered prima-facie evidence of permanent occupancy. Users of the spaces shall meet all other applicable laws. Spaces shall be rented by the day, week or month only and an occupant of such space shall not remain in the same park for a period exceeding ninety (90) days.
2. Removal of Vehicle Equipment Prohibited: Removal of the vehicle tag, wheels, tongue, hitch or A-frame, gas tanks or other vehicle equipment from a recreational vehicle shall be prohibited, and shall be considered prima-facie evidence of permanent occupancy.
3. Attachments to Recreational Vehicles Prohibited: Attachments to recreational vehicles shall be prohibited, with the sole exceptions of pop-out units and similar structures which are integral to the recreational vehicle as originally manufactured.

### **E.**

After all required improvements have been completed for a recreational vehicle. park, or an approved construction stage of the park, the City Engineer shall certify completion of all improvements in accordance with construction drawings and the Zoning and Building Official shall certify the completed Recreational Vehicle lots as being approved for occupancy. Until a Recreational Vehicle lot is approved for occupancy. Until a Recreational Vehicle lot is approved for occupancy, no recreational vehicle shall be placed thereon.

### **F. Submission of Plans.**

A site plan shall be submitted to the Zoning Administrator, City Engineer and Fire Inspector for review showing the following items. After satisfactory review, the plan shall be submitted to the Building Official for the issuance of a building permit. The minimum scale of the plans shall be one hundred (100) feet to one (1) inch or larger or small as approved by the City Engineer.

1. Title, scale, north point, date, and name of site planner.
2. Existing buildings and structures.
3. Streets, layout.
4. Service and maintenance building if applicable.
5. Recreational vehicle lots consecutively numbered or lettered.
6. Street (driveways) and parking spaces with dimensions.

**SECTION 8.23 FUTURE USE (BLANK)**

*Section Reserved (future use)*

## SECTION 8.24 ADULT BUSINESS REGULATIONS<sup>28</sup>

### A. Purpose and Intent.

The purpose and intent of this chapter is to regulate adult-oriented businesses, which, unless closely regulated, tend to have serious secondary effects on the community. The City of Opelika has recognized that adult businesses, due to their nature and deleterious secondary effects, can have serious objectionable operational characteristics, thereby contributing to urban blight and downgrading the quality of life. The secondary effects on the community include, but are not limited to, the following: negative impacts on children, increased crime against women and children, public health concerns including sexually transmitted diseases, depreciation of property values and increase in vacancies in residential and commercial areas in the vicinity of adult businesses, interference with residential property owners' enjoyment of their property when such property is located in the vicinity of adult businesses as a result of increases in crime, litter, noise and vandalism, and higher crime rates in the vicinity of adult businesses. Special regulations of adult businesses are necessary to minimize these adverse effects and the potential degradation of sensitive areas (schools, place of worship, etc.) and neighborhoods in the vicinity of the adult businesses.

The City of Opelika recognizes the free speech rights of businesses and individual consumers. It is neither the intent nor the effect of this ordinance to impose limitations or restrictions on the content of any communicative material. It is neither the intent nor the effect of this ordinance to restrict or deny access by adults to communication materials or to deny access by the distributors of adult businesses to their intended market. However, after considering citizen testimonies and recommendations from professional staff concerning the secondary effects of adult businesses on the community, the City determined this ordinance is necessary to establish reasonable regulations to reduce the secondary effects that adult businesses have upon the residents of the City.

Nothing in this chapter is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any city ordinance or any statute of the State of Alabama regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness or obscene or harmful matter or the exhibition or public display thereof.

Section 19 *Indecency and Obscenity* of the Code of Ordinances, City of Opelika concerning indecency, obscenity, and related offences prohibits the following:

- It shall be unlawful for any person knowingly to show any obscene<sup>29</sup> materials or exhibits to minors or have obscene a performance with knowledge a minor is present (minor - any unmarried person under the age of eighteen years).

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<sup>28</sup> Date of Amendment: October 3, 2000      Ordinance No. 125-00      Add Adult Business Section

<sup>29</sup> Such term means that: a. To the average person, applying contemporary community standards, the work or performance, taken as a whole, appeals to the prurient interest; and b. The work or performance depicts or describes, in a patently offensive way, sexual conduct, actual or simulated, normal or perverted; and c. The work or performance, taken as a whole, lacks serious literary, artistic, political or scientific value. (Section 19-531, Code of Ordinances, City of Opelika)

- No person shall expose to public view his or her specified anatomical areas<sup>30</sup> or exhibit/perform specified sexual activities<sup>31</sup> including the showing of pictures or the projection of film in an establishment dealing in alcoholic beverages.
- It shall be unlawful for any person knowingly

## B. Definitions.

**Adult arcade.** An establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors or similar machines, for viewing by five (5) or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

**Adult bookstore or adult video store.** An establishment which has as a *regular and substantial portion* (see definition) of its stock-in-trade business, or advertising to the sale, rental or viewing for any form of consideration any one (1) or more of the following:

Books, magazines, periodicals or other printed matter, or photographs, films, sculptures, motion pictures, video cassettes, slides or other visual representations ("adult material") which are characterized by an emphasis upon the depiction or description of *specified sexual activities* or *specified anatomical areas* (see definition).

**Adult business.** Any business establishment or concern which as a *regular and substantial course of conduct* performs or operates as an adult bookstore, or adult video store, *adult theater, adult motion picture theater, adult cabaret, adult motel/hotel, adult arcade, massage parlor*, or any other business or concern which as a *regular and substantial portion of its business* offers to its patrons products, merchandise, services or entertainment which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas but not including those uses or activities, the regulation of which is preempted by state law. "Adult business" shall also include any establishment, which as a *regular and substantial course of conduct* provides or allows performers, models, or employees to appear in any public place dressed only in lingerie.

**Adult cabaret.** A nightclub, restaurant or similar business establishment which regularly features live performances which are characterized by the exposure of *specified anatomical areas* or by *specified sexual activities*, or films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of *specified sexual activities* or *specified anatomical areas*.

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<sup>30</sup> Specified anatomical areas. Includes any of the following: Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, or b. Human male genitals in a discernable turgid state, even if completely and opaquely covered.

<sup>31</sup> Specified sexual activities. Includes any of the following: a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; b. Sex acts, actual or simulated, including intercourse, oral copulation or sodomy; c. Masturbation, actual or simulated; or d. Excretory functions as part of or in connection with any of the activities described in subdivisions a. through c. of this subsection. e. Striptease, or the removal of clothing, or the wearing of transparent or diaphanous clothing, including models dressed only in lingerie to the point where specified anatomical areas are exposed. f. Prohibitions as stated in Section 19 *Indecency and Obscenity* of the Code of Ordinances, City of Opelika or statutes of the State of Alabama.

**Adult hotel/motel.** A hotel or motel or similar business establishment offering public accommodations for any form of consideration which (1) provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of *specified sexual activities* or *specified anatomical areas*; and/or (2) rents, leases, or lets any room for less than a six (6) hour period, or rents, leases or lets any single room more than twice in a twenty-four (24) hour period.

**Adult Motion Picture Theater.** A business establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is characterized by an emphasis upon the depiction or description of *specified sexual activities* or *specified anatomical areas*.

1. **Adult theater.** A theater, concert hall, auditorium or similar establishment which, for any form of consideration, regularly features live performances which are characterized by the exposure of *specified anatomical areas* or by *specified sexual activities*.
2. **Establishment.** Establishment of an adult business includes any of the following:
  - a. The opening or commencement of any such business as a new business;
  - b. The conversion of an existing business, whether or not an adult business, to any of the adult businesses defined herein;
  - c. The addition of any of the adult businesses defined herein to any other existing adult business; or
  - d. The relocation of any such adult business.

**Gross receipts.** Shall mean and includes the total amounts actually received or receivable from the sale, trade, rental, display or presentation of services, products, adult material or entertainment which are characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. See *C. Records of Gross Receipts*.

**Massage Parlor.** Any place where for any form of consideration or gratuity, Massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other manipulation of the human body which occurs as a part of or in connection with *specified sexual activities* or where any person providing such treatment, manipulation, or service related thereto, exposes *specified anatomical areas*. The definition shall not include the practice of Massage in any licensed hospital, nor by a physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur or professional athlete or athletic team or school athletic program, nor by any Alabama State licensed physical therapist.

**Minor.** Any unmarried person under the age of eighteen (18) years.

**Obscene.** Such term means that:

- a. To the average person, applying contemporary community standards, the work or performance, taken as a whole, appeals to the prurient interest; and
- b. The work or performance depicts or describes, in a patently offensive way, sexual conduct, actual or simulated, normal or perverted; and

- c. The work or performance, taken as a whole, lacks serious literary, artistic, political or scientific value.<sup>32</sup>

**Owner.** For purposes of this section, "owner," shall mean any of the following: (a) the sole proprietor of an adult business; or (b) any general partner of a partnership which owns and operates an adult business; or (c) the owner of a controlling interest in a corporation which owns and operates an adult business; or (d) the person designated by the officers of a corporation to be the permit holder for an adult business owned and operated by the corporation.

**Person.** Shall mean and includes person(s), firms, corporations, partnerships, associations, or any other forms of business organization or group(s).

**Regular and substantial course of conduct and regular and substantial portion of its business.** Shall mean any adult business where one (1) or more of the following conditions exist:

- a. The area(s) devoted to the display of adult material exceeds fifteen (15%) percent of the total display area of the business; or
- b. The business or concern presents any type of live entertainment characterized by an emphasis on specified sexual activity or specified anatomical parts, or performers, models or employees appearing in public dressed only in lingerie on any four or more separate days within any 30-day period; or
- c. At least twenty-five (25%) percent of the gross receipts of the business are derived from the sale, trade, rental, display or presentation of services, products, adult material, or entertainment which are characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. See *Records of Gross Receipts* section.

**Religious institution.** A structure which is used primarily for religious worship and related religious activities.

**School.** Any child care facility, or an institution of learning for minors, whether public or private, which offers instruction in those courses of study required by the State of Alabama or which is maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, junior high school, senior high school or any special institution of education. The definition also refers to a vocational or professional institution of higher education as a community college.

**Specified anatomical areas. Includes any of the following:**

- a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, or
- b. Human male genitals in a discernable turgid state, even if completely and opaquely covered.

**Specified sexual activities.** Includes any of the following:<sup>33</sup>

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<sup>32</sup> Prohibitions as stated in Section 19-531 *Indecency and Obscenity* of the Code of Ordinances, City of Opelika or statutes of the State of Alabama.

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- b. Sex acts, actual or simulated, including intercourse, oral copulation or sodomy;
- c. Masturbation, actual or simulated; or
- d. Excretory functions as part of or in connection with any of the activities described in subdivisions a. through c. of this subsection.
- e. Striptease, or the removal of clothing, or the wearing of transparent or diaphanous clothing, including models dressed only in lingerie to the point where specified anatomical areas are exposed.

**Transfer of ownership or control of an adult business.** "Transfer of ownership or control of an adult business" shall mean and include any of the following:

- a. The sale, lease or sublease of the business; or
- b. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
- c. The establishment of a trust, gift or other similar legal devise which transfers ownership or control of the business, including the transfer by inheritance or other operation of law upon the death of a person possessing the ownership or control.

### **C. Records of Gross Receipts.<sup>34</sup>**

Person(s) required to obtain an adult business license pursuant to the provisions of this chapter for any business establishment which provides products, adult material, merchandise, services or entertainment which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in *B. Definitions* of this section, shall maintain complete records which can be segregated with regard to all transactions involving such products, merchandise, adult material, services or entertainment which are sufficient to establish the percentage of gross receipts of the business which is derived from such transactions. Such records shall be maintained for a period of at least three (3) years.

No person required to keep records under this section shall refuse to allow authorized representatives of the city to examine said records at reasonable times and places.

This section shall not be applicable to a business establishment for which such transactions constitute less than twenty-five (25%) percent of the gross receipts of the business.

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<sup>33</sup> Prohibitions as stated in Section 19 *Indecency and Obscenity* of the Code of Ordinances, City of Opelika or statues of the State of Alabama.

<sup>34</sup> Shall mean and includes the total amounts actually received or receivable from the sale, trade, rental, display or presentation of service products, adult material or entertainment which are characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

#### **D. Adult Business Regulations.**

Adult businesses are allowed with conditional use approval by the Opelika Planning Commission in C-3 or M-1 zoning districts. Adult businesses are not allowed in Gateway Corridor Overlay Districts. It shall be unlawful for any *person* to operate, engage in, conduct or carry on any adult business within the City of Opelika unless the *person* of the adult business first apply for and receive conditional use approval from the Opelika Planning Commission. The Planning Commission may impose reasonable restrictions and conditions for approval to comply with the purposes and intent of this ordinance.

In addition to development regulations and zoning requirements governing conditional use permits, the following additional requirements shall be satisfied by adult businesses. The additional requirements below shall be included, as applicable, in a conditional use request:

1. No adult business shall be established within two thousand (2000) feet of any areas zoned for any residential use. (Distance is measured in a straight line from the nearest property line of the adult business to the nearest property in a residential zone. This same measurement method shall be used below.)
2. No adult business shall be established within a radius of two thousand (2,000) feet of any school, library, or teaching facility, whether public or private, governmental or commercial, which school, library or teaching facility is attended by unmarried persons under eighteen (18) years of age.
3. No adult business shall be established within a radius of two thousand (2,000) feet of any other adult business or establishment for the sale of beer or intoxicating liquor for consumption on the premises, day care homes, group homes or child care centers, pool or billiard hall, video game and/or pinball halls or arcades, or dance halls.
4. No adult business shall be established within a radius of two thousand (2000) feet of any church, synagogue, or permanently established place of religious services.
5. No adult business shall be operated in any manner that permits the display, advertisement, or observation of any material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" from any public way (street, sidewalk, etc.) or from any location outside the building or area of such establishment. This provision shall apply to any decoration, sign, show window, or opening into the business.
6. No speakers or sound equipment shall be used by an adult business for the amplification of sound to a level discernible by the public beyond the exterior walls of the building in which such use is conducted or which violates any noise restrictions as adopted by the City of Opelika. No screen shall be used to show still or motion pictures that can be seen from any public way.
7. The building entrance to an adult business shall be clearly and legibly posted with a notice indicating that minors are prohibited from entering the premises. Said notice shall be constructed and posted conspicuously near the entrance(s) of the business and subject to approval by the Opelika Planning Commission.
8. The adult business shall not conduct or sponsor any special events, promotions, festivals, concerts or similar activities which would increase the demand for parking spaces beyond the approved number of spaces for the business.

9. The adult business shall not conduct any massage, acupuncture, figure modeling, tattooing, acupressure or escort services and shall not allow such activities on the premises.
10. No exterior door or window on the premises shall be propped or kept open any time while the business is open, and any exterior windows shall be covered with opaque covering at all times. Such opaque covering shall be subject to approval of the Planning Commission. Permanent barriers shall be installed and maintained to screen the interior of the premises from view for each door used as an entrance/exit to the business.
11. All indoor or interior areas of the adult business where patrons are permitted, except restrooms, shall be within view at all times.
12. No unmarried person under the age of 18 years shall be permitted within the premises at any time.
13. No adult business shall be operating for business or open during the hours from 10:00 p.m. to 8:00 a.m.
14. For adult businesses providing live entertainment (adult cabaret, adult theater, etc.) depicting specified anatomical areas or involving specified sexual activities, no person shall perform entertainment for patrons except on a designated stage area constructed at least two (2) feet above the level of the floor and separated at least six (6) feet from the nearest area occupied by patrons. No patron shall be permitted within six (6) feet of the stage while the stage is occupied by an entertainer. "Entertainer" shall mean any person who is an employee or independent contractor of the adult business, or any person without any compensation, performs live entertainment for patrons of an adult business. Adult businesses providing live entertainment depicting specified anatomical areas or involving specified sexual activities are prohibited in establishments dealing in alcoholic beverages.
15. For adult arcades, the viewing area or booth shall remain unobstructed by any doors, walls, persons, merchandise, or other materials at all times. No individual viewing area/booth may be occupied by more than one (1) person at any time.
16. All adult businesses are subject to requirements of Article XVI. Obscenity and Related Offences in the Code of Ordinances, City of Opelika and statues of the State of Alabama.

#### **E. Suspension and Revocation of Revoke Any Conditional Use Permit.**

The Planning Commission may suspend or revoke any conditional use permit if it is found that any of the following conditions exist in addition to the criteria set forth in this chapter:

1. The operation conducted by the permittee does not comply with all applicable laws, including, but not limited to, the city's building health, zoning and fire ordinances, the requirements of this regulation, and the conditions of approval of the conditional use permit;
2. That the approved use has been enlarged without city approval; that the approved use has been partially or wholly converted to another adult business without city approval; that the conditional use permit has not been utilized within six (6) months of its issuance; or
3. The adult business license has been suspended or revoked.

### **F. Adult Business License Required.**

An applicant for the operation of an adult business must obtain an adult business license in addition to a conditional use permit. No adult business license shall be sold, transferred, or assigned by any license holder, or by operation of law, to any other person, group, partnership, corporation or any other entity, and any such license shall be transfer or assignment shall be deemed to constitute a voluntary surrender of such license, and such license shall be thereafter null and void. An adult business license held by an individual in a corporation or partnership is subject to the same rules of transferability as contained above. Any change in business use shall also render the license null and void. An adult business license shall be valid only for the exact location specified in the license.

### **SECTION 8.25 RESIDENTIAL REDEVELOPMENT PROJECT**

The City of Opelika seeks to encourage the redevelopment of residential neighborhoods that are experiencing decline evidence by inadequate and/or deteriorating homes through residential redevelopment. As a result, the City will allow greater flexibility in the application of subdivision regulations, zoning regulations and other land use regulations for approval Residential Redevelopment Projects. The Residential Redevelopment Project is designed to eliminate unsafe housing, conditions, promote affordable owner occupied housing, and provide a framework to enhance investor confidence. A Residential Redevelopment Project may be approved only when a minimum of two (2) adjacent substandard homes fronting on the same street are replaced with single-family detached homes that are intended for owner occupancy.

The Planning Commission shall determine whether the proposed Residential Redevelopment Project is necessary, is in harmony with the purposes of this ordinance, and promotes the public health, safety, or welfare of the surrounding neighborhood. A public hearing shall be held by the Planning Commission and conditional use approval required for all Residential Redevelopment Project proposals. A site plan of the redevelopment project shall be submitted which shall comply with the requirements of Section 8.16 *Site Plan Review* as well as the requirements set out in this ordinance.

The criteria to be used by the Planning Commission to evaluate a Residential Redevelopment Project for approval include, but are not limited to, the following:

Merits or the developer's Redevelopment Project. The developer shall submit simultaneously with an application detailed evidence (photos, tax records, etc.) of inadequate and/or deteriorated homes within the project area to enable the Planning Commission to make an informed decision concerning the public need for the Redevelopment Project.

### **A. Compatibility.**

The new single-family homes to be constructed within the project area shall be consistent in design and appearance with two (2) or more existing homes fronting along the same street (or adjacent street within the project) and shall be compatible with the predominant character of the homes in the neighborhood. The design and appearance of the new homes shall be regarded as supportive of neighborhood character when similar exterior materials, front elevation facades, building site and height, and roof pitch are used. The developer shall provide scaled drawings, photographs, and/or renderings of the front elevation of the proposed single-family homes and existing homes in the neighborhood. Residential buffers may be required between the redevelopment area and established older homes in the neighborhood to enhance compatibility. The proposed project shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions or public utilities and/or facilities.

### **B. Subdivision and Zoning Requirements.**

Residential Redevelopment Projects shall be allowed in the R-3, R-4, R-4M, R-5, and R-5M zoning districts with conditional use approval. Residential Redevelopment Projects shall meet the density and building height requirements of the zoning district. The area (in square feet) of all new homes to be constructed within the project shall be not less than ninety percent (90%) of the average area of the existing homes located on the same street (or adjacent streets, if part of the project) within the Redevelopment Project. When lots are recorded at the Lee County Courthouse, said lots are proposed to be resubdivided for the purposes of a Residential Redevelopment Project, and the Planning Commission approves a Residential Redevelopment Project with respect to said lots, then the lot area, setbacks, and maximum building area approved shall be deemed to meet the requirements of the zoning district.

### **C. Adequate Implementation Work Schedule.**

The developer shall submit an implementation work schedule that represents the estimated time frame required to complete each work phase including a beginning and completion date. The work phases shall include an overview of the work activities required to finance, construct, and complete the redevelopment project as well as an implementation strategy to sell the homes.

Section 2. If any section, clause, provision or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such section shall be effect any other section, clause or portion of this ordinance, which is not in of itself invalid or unconstitutional.

Section 3. Any ordinance or part thereof in conflict with the provisions of this ordinance be and the same are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption, approval and publication as required by law.

Section 5. This ordinance shall be published in the Opelika-Auburn News, a newspaper in and of general circulation in the City of Opelika, Lee County, Alabama.

## **SECTION 8.26 OUTDOOR ADVERTISING**

Except as set forth below, the business of outdoor advertising is a prohibited use in all zoning districts of the City. The only exceptions for outdoor advertising being a prohibited use are as follows:

A. Where there is an existing and lawful outdoor advertising structure on a parcel of land in any zoning district in the City as of January 1, 2016 on which the business of outdoor advertising is being conducted, the business of outdoor advertising may continue to be conducted on that billboard structure for so long as (a) the billboard structure has not been removed and remains in its present condition without any alterations or enhancements, and (b) the billboard has not been substantially destroyed by an Act of God. If the billboard structure is removed for any reason, or if the billboard structure has been unlawfully altered or enhanced, or if the billboard structure has been substantially destroyed by an Act of God, then and in that event the business of outdoor advertising will no longer be a lawful use on the parcel where the billboard structure is or had been located.

B. Where there is vested right as of January 1, 2016 for an outdoor advertising company to erect in the future a billboard structure or to alter or enhance an existing billboard structure to conduct the business of outdoor advertising, then and in that event the business of outdoor advertising shall not be deemed a prohibited use on any such a billboard structure. This exception is limited to such vested rights as were created through the City's approval of a settlement agreement approved prior to December 31, 2015, wherein certain claims were thereupon settled involving the potential placement of billboard structures in the future within the City's limits. However, this exception to the business of outdoor advertising being a prohibited use on a parcel with any such billboard structure in the future may continue only for so long as (a) the billboard structure is not subsequently removed and is not altered or enhanced, and (b) the billboard structure has not been substantially destroyed by an Act of God. If the billboard structure is later removed for any reason, or if the billboard structure is unlawfully altered or enhanced, or if the billboard structure is substantially destroyed by an Act of God, then and in that event the business of outdoor advertising will no longer be a lawful use on the parcel where the billboard structure has been located.

## SECTION IX

### SIGN REGULATIONS

- 9.1. Purpose, Intent and Scope.
- 9.2. Definitions.
- 9.3. Applicability.
- 9.4. Prohibited Signs.
- 9.5. General Provisions for Signs.
  - (1) Measurement of Sign Size (Sign Area).
  - (2) Measurement of Sign Height of a Freestanding Sign.
  - (3) Sign Illumination for Temporary and Permanent Signs.
  - (4) Viewpoint Neutrality.
  - (5) Substitution of Noncommercial Speech for Commercial Speech.
  - (6) Consent of Legal Owner of Property.
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  - (8) Signs That Obstruct Means of Egress.
  - (9) Signs That Interfere with Ventilation Openings.
  - (10) Signs Must Maintain Clearance from Utilities and Shall Not Interfere with Surface and Underground Water or with Drainage.
  - (11) Signs Shall Not Be Attached to Certain Property and Shall Not Impair Roof Access.
  - (12) Signs Declared a Nuisance and Repair; Signs Presenting Immediate Peril to Public Health or Safety.
  - (13) Street Address Signs.
  - (14) Ingress and Egress Signs.
  - (15) Flagpoles and Flags; Flag Brackets, Flag Stanchions and Flags.
  - (16) Noncommercial Onsite Parking Space Signs.
  - (17) Signs at Convenience Store with Fuel Islands.
  - (18) Freestanding Signs.
  - (19) Wall Signs.
  - (20) Drive-Through Lane Signs.
  - (21) Umbrella Signs.
  - (22) Awning Signs.
  - (23) Canopy Signs.
  - (24) Changeable Copy Signs.
  - (25) Projecting Signs.
  - (26) Window Signs.
  - (27) Door Signs.
- 9.6. Temporary and Permanent Signs Allowed in Zoning Districts.
- 9.7. Allowed Temporary Signs in Zoning Districts.
- 9.8. Allowed Permanent Signs in Zoning Districts.
  - (1) Rural Zoning District, Residential Transition Zoning District, Low Density Residential Zoning District, Medium Density Residential Zoning District, and Village Residential Zoning District (R-1, R-1A, R-2, R-3, and VR).

- (2) High Density Zoning Districts and Multi-Family Residential Zoning Districts (R-4, R-5, RM-4 and RM-5).
  - (3) Downtown Commercial Zoning District, Office/Retail Zoning District, General Commercial Zoning District, and Village Commercial Zoning District (C-1, C-2, C-3 and VC).
  - (4) Industrial Zoning Districts (M-1 and M-2).
  - (5) Institutional Zoning District (I-1).
  - (6) Airport Zoning District (AP).
  - (7) Planned Residential Development Zoning District (PRD).
  - (8) Planned Unit Development Zoning District (PUD).
  - (9) Retail/Entertainment Zoning District (R/E).
  - (10) Floodplain Overlay District (FP).
  - (11) Gateway Corridor Overlay Districts (GC).
  - (12) Hospitality Overlay District (HOD).
- 9.9. Building Permits.
- 9.10. Sign Permits.
- 9.11. Nonconforming Signs.
- 9.12. Miscellaneous Provisions.
- 9.13. Violations; Penalties.
- 9.14. Removal of Unlawful and Dangerous Signs.
- 9.15. Severability.
- Schedule A.

## **SECTION 9.1. PURPOSE, INTENT AND SCOPE.**

It is the purpose of this section to promote the public health, safety and general welfare of the general public through reasonable, consistent and non-discriminatory sign regulations for the erection, placement and maintenance of signs. The sign regulations in this section are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of signs. The sign regulations are especially intended to address the secondary effects that may adversely impact aesthetics and safety. The sign regulations are designed to serve substantial governmental interests and, in some cases, compelling governmental interests such as traffic safety and warning signs of threats to bodily injury or death.

This section regulates signs, as defined in this section, which are placed on private property or on property owned by public agencies including the City and over which the City has zoning authority. This section is not intended to extend its regulatory regime to objects that are not traditionally considered signs for purpose of government regulation. The City is a community that cherishes and preserves its rich heritage, while at the same time embracing all of the visions and opportunities for a bright future for its residents and businesses. In order to preserve and promote the city as a desirable community in which to live and do business, a pleasing, visually attractive environment is of foremost importance. The regulation of signs within the City is a highly contributive means by which to achieve this desired end.

These sign regulations have been prepared with the intent of enhancing the visual environment of the City and promoting its continued well-being, and are intended to:

- (1) Encourage the effective use of signs as a means of communication in the City;
- (2) Maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth;
- (3) Safeguard and promote the aesthetic quality of the City by establishment of reasonable standards for the number, size, height, spacing, placement and illumination of such signs in the interest of public safety and the general welfare;
- (4) Improve pedestrian and traffic safety;
- (5) Minimize the possible adverse effect of signs on nearby public and private property;
- (6) Foster the integration of signage with architectural and landscape designs;
- (7) Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of signs which compete for the attention of pedestrian and vehicular traffic;
- (8) Allow signs that are compatible with their surroundings and aid orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs;
- (9) Encourage and allow signs that are appropriate to the zoning district in which they are located;
- (10) Establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains;
- (11) Preclude signs from conflicting with the principal permitted use of the site and adjoining sites;
- (12) Regulate signs in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians;
- (13) Except to the extent expressly preempted by state or federal law, ensure that signs are constructed, installed and maintained in a safe and satisfactory manner, and protect the public from unsafe signs;
- (14) Preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all districts of the City;
- (15) Allow for traffic control devices consistent with national and state standards and whose purpose is to promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and that notify road users of regulations and provide warning and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream;

(16) Protect property values by precluding, to the maximum extent possible, sign types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;

(17) Protect property values by ensuring that sign types, as well as the number of signs, are in harmony with buildings, neighborhoods, and conforming signs in the area;

(18) Regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the City and that complements the natural surroundings in recognition of this City's reliance on its natural surroundings and beautification efforts in retaining economic advantage for its community, as well as for its major subdivisions, shopping centers and industrial parks;

(19) Enable the fair and consistent enforcement of these sign regulations;

(20) Promote the use of signs that positively contribute to the aesthetics of the community, are appropriate in scale to the surrounding buildings and landscape, and advance the City's goals of quality development;

(21) Provide standards regarding the non-communicative aspects of signs, which are consistent with city, county, state and federal law;

(22) Provide flexibility and encourage variety in signage, and create an incentive to relate signage to the basic principles of good design; and

(23) Assure that the benefits derived from the expenditure of public funds for the improvement and beautification of streets, sidewalks, public parks, public rights-of-way, and other public places and spaces, are protected by exercising reasonable controls over the physical characteristics and structural design of signs.

## **SECTION 9.2. DEFINITIONS.**

The words, phrases and terms used in this Section IX shall have the meanings herein ascribed to them. Words and phrases not defined in this Section IX but defined elsewhere in the Zoning Ordinance shall be given the meanings therein ascribed to them. Any word, phrase or term not defined in this Zoning Ordinance shall have its commonly understood meaning.

**Advertising.** Any commercial sign copy intended to aid, directly or indirectly, in the sale, use or promotion of a product, commodity, service, sales event, activity, entertainment, real property, or personal property.

**Architectural Detail or Embellishment.** Any projection, relief, change of material, window or door opening, exterior lighting, inlay, or other exterior building features not specifically classified as a sign. The term includes, but is not limited to, relief or inlay features or patterns that distinguish window or door openings, exterior lighting that frames building features, and changes in façade materials to create an architectural effect.

**Artwork.** A two- or three-dimensional representation of a creative idea expressed in an art form but does not convey the name of the business or a commercial message. If displayed as a two-dimensional representation on a flat surface, the same shall not exceed one-quarter (1/4) of the total surface area; however, if displayed on a flat surface oriented to a federal-aid primary highway, the same shall not exceed one-half (1/2) of the total surface area. All outdoor artwork shall conform to the maximum height restrictions in any particular zone in which it is located. All outdoor artwork shall also conform to any applicable building code and safety standards.

**Awning.** Any secondary covering attached to the exterior wall of a building. It is typically composed of canvas woven of acrylic, metal, cotton or polyester yarn, or vinyl laminated to polyester fabric that is stretched tightly over a light structure of aluminum, iron or steel, or wood.

**Billboard.** An advertising sign or other commercial sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed.

**Building Code.** The International Building Code, any amendments thereto, and any successor code adopted by the City.

**Building Permit.** A permit required by the applicable building code for the construction of a sign or the addition to or modification of a sign structure.

**Business of Outdoor Advertising.** The business of building outdoor advertising signs or structures or receiving income from the sale or lease of outdoor advertising signs or the sale, lease or rental of advertising space on such signs.

**Canopy.** An overhead roof or structure that is able to provide shade or shelter. It is typically ground supported or supported by metal frame.

**Characters.** Symbols, marks, logos, or inscriptions.

**City.** The City of Opelika.

**City Council.** The City Council of the City of Opelika, Alabama.

**Code of Ordinances.** The Code of Ordinances, City of Opelika, Alabama, also known as the Opelika City Code.

**Color.** Any distinct tint, hue or shade including white, black or gray.

**Commercial message.** Any sign wording, copy, logo, or other representation or image that directly or indirectly names, advertises, or calls attention to a product, commodity, service, sale, or sales event, activity, entertainment or other commercial activity.

**Master Plan.** The Opelika Master Plan 2030 and any successor master plan upon adoption.

**Copy.** The linguistic or graphic content of a sign.

**Decoration.** Any decoration visible from a public area that does not include lettering or text and is not displayed for commercial advertising.

**Director of Planning; Director.** The planning director or the director's designee.

**Egress.** An exit.

**Erect.** To construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any way bring into being or establish: but it does not include any of the foregoing activities when performed as an incident to the change of message or customary maintenance or repair of a sign.

**Façade.** The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

**Fence.** An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

**Flag.** A temporary sign consisting of a piece of cloth, fabric or other non-rigid material.

**Flagpole.** A pole on which to raise a flag.

**Frontage, Building.** The maximum width of a building measured in a straight line parallel with the abutting street, public parking lot, or pedestrian walkway.

**Frontage, Lot.** The horizontal distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way. All sides of a lot that abut a street shall be considered lot frontage.

**Group Development.** Two (2) or more uses occupying the same parcel or where two (2) or more use function as a single complex by virtue of having common access, parking, traffic, or design orientation. A shopping center, office, industrial park, or malls are all group developments. All businesses located in such a group development, even if they occupy separate buildings or are developed on out parcel lots; will be considered part of the group development.

**Ingress.** An access or entry.

**Intermittent.** More frequently than once per day.

**Lot.** A parcel, tract, or area of land of varying size established by plat, subdivision, or as otherwise permitted by law, which is designated as a single unit which is intended to be occupied by one building, or group of buildings, and its accessory uses. *See also Lot, Corner* Section 2.2.

**Maintenance.** In the context of this Section IX, means the repairing or repainting of a portion of a sign or sign structure, periodically changing changeable copy, or renewing copy, which has been made unusable by ordinary wear.

**Marquee.** Any permanent wall or roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed as part

of the principal structure to provide protection from the weather. A marquee is not an awning or canopy.

**Monopole.** A vertical self-supporting structure, not guyed, made of spin-cast concrete, concrete, steel or similar material, presenting a solid appearance.

**Neighborhood Shopping Center.** A commercial development site containing more than one commercial building with an aggregate of 39,000 to 64,999 square feet of gross building area.

**Non-commercial message.** Any message which is not a commercial message.

**Nonconforming building or structure.** Any building or other structure which was lawfully constructed but which does not comply with all applicable provisions of the Zoning Ordinance, including size and dimensional standards, off-street parking standards, landscape standards, performance standards, or height standards either on the effective date of the Zoning Ordinance or as a result of any subsequent amendment. Such noncomplying building or structure shall be referred to as a nonconformity.

**Offsite Commercial Advertising.** A non-accessory billboard or sign which directs attention to a business, commodity, service, entertainment, or attraction that is sold, offered or existing elsewhere than upon the same lot where such sign is displayed.

**Owner.** Any part or joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety with legal or beneficial title to whole or part of a building or land.

**Nonconforming use.** Any use of a building or structure which, at the time of the commencement of the use, was a permitted use in the zoning district until the effective date of the Zoning Ordinance, but which does not, on the effective date of the Zoning Ordinance or amendment thereto, conform to any one of the current permitted uses of the zoning district in which it is located. Such nonconforming use may be referred to as a nonconformity.

**Parcel of land.** Any quantity of land and water capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

**Parking lot.** An off-street, ground level area or plot of land used for the storage or parking of vehicles.

**Parking space.** A space for the parking of a motor vehicle within a public or private parking area.

**Pennant.** Any lightweight plastic, fabric, or other material whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, which will flutter or swing in the wind.

**Person.** Any person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer or any other entity whatsoever or any combination of such, jointly or severally.

**Planning Director.** The person appointed to direct the Planning Department of the City of Opelika, Alabama.

**Planning Commission.** The City of Opelika Planning Commission.

**Right-of-Way.** The area of a highway, road, street, way, parkway, electric transmission line, gas pipeline, water main, storm or sanitary sewer main, or other such strip of land reserved for public use, whether established by prescription, easement, dedication, gift, purchase, eminent domain or any other legal means.

**Sign.** Any device, fixture, placard or structure, including its component parts, which draws attention to an object, product, place, activity, opinion, person, institution, organization, or place of business, or which identifies or promotes the interests of any person and which is to be viewed from any public street, road, highway, right-of-way or parking area (collectively referred to as a “public area”). For the purposes of these regulations, the term "sign" shall include all structural members. A sign shall be construed to be a display surface or device containing organized and related elements composed to form a single unit. In cases where matter is displayed in a random or unconnected manner without organized relationship of the components, each such component shall be considered to be a single sign. The term “*sign*” for regulatory purposes shall not include the following objects: Grave yard and cemetery markers visible from a public area, vending machines or express mail drop-off boxes visible from a public area, decorations that do not constitute advertising visible from a public area, artwork that does not constitute advertising or a building’s architectural features visible from a public area, or a manufacturer’s or seller’s markings on machinery or equipment visible from a public area. The foregoing objects are not *signs* for purpose of regulation herein.

**Sign, A-Frame.** A portable sign utilizing an upright, rigid supporting frame in the form of a triangle or an inverted “V” style of framing to support the sign.

**Sign, Abandoned.** A sign that is not operated or maintained for a period of one hundred eighty (180) calendar days or longer. The following conditions shall be considered as the failure to operate or maintain a sign: (1) the sign displays advertising for a product or service which is no longer available, (2) the sign displays advertising for a business which is no longer licensed, or (3) the sign is blank. An *abandoned sign* includes a sign on which is advertised a business that no longer has a certificate of occupancy or that is no longer doing business on the parcel where the sign is located. An *abandoned sign* includes a sign for a purpose for which the purpose has lapsed. If the abandoned sign is on a freestanding sign structure conforming with the city’s Zoning Ordinance and in compliance with the current Building Code, then only the sign face shall be considered abandoned and only the sign face shall be removed. Any replacement sign face must comply with the City’s Zoning Ordinance. However, if the abandoned sign is on a freestanding sign structure that is nonconforming with the City’s Zoning Ordinance, then both the sign face and the sign structure shall be removed.

**Sign, Attached.** Any sign attached to, on, or supported by any part of a building (e.g., walls, awning, windows, or canopy), which encloses or covers useable space.

**Sign, Awning.** Any sign that is a part of or printed, stamped, stitched or otherwise applied onto a protective awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

**Sign, Bandit.** *See also Sign, Snipe.*

**Sign, Banner.** A temporary sign made of wind and weather resistant cloth or other lightweight material, intended to hang either with or without frames or in some other manner as not to be wind activated, and possessing characters, letters, illustrations, or ornamentations applied to paper, plastic or fabric of any kind. Flags shall not be considered banners for the purpose of this definition.

**Sign, Beacon.** A stationary or revolving light which flashes or projects illumination, single color or multicolored, in any manner which has the effect of attracting or diverting attention, except, however, this term does not include any kind of lighting device which is required or necessary under the safety regulations of the Federal Aviation Administration or other similar governmental agency. This definition does not apply to any similar type of lighting device contained entirely within a structure and which does not project light to the exterior of the structure.

**Sign, Billboard.** *See also Billboard.*

**Sign, Blinking.** A sign or any portion of a sign, whose illumination is characterized by a repetitive cycle that changes at a frequency of eight (8) seconds or less.

**Sign, Cabinet.** A sign that contains all the text and/or logo symbols within a single enclosed cabinet and may or may not be illuminated.

**Sign, Canopy.** A sign affixed to a canopy, awning, eave, cantilever story or extended roof of a building. *See also Sign, Awning.*

**Sign, Changeable Copy.** A sign with the capability of content change by means of manual or remote input, including the following types:

- (1) Manually activated. Changeable sign whose message copy can be changed manually on a display surface.
- (2) Electronically activated. Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices, or may be from an external light source designed to reflect off of the changeable component display. *See also Sign, Electronic Message.*

Note: In connection with a Changeable Copy Sign, there is no vested right to any frequency in the changeable copy or in the brightness level of any light source.

**Sign, Discontinued.** A sign that is not operated or maintained for a period of one hundred eighty (180) calendar days or longer, and the intent of the owner of the sign shall not be a consideration in whether or not the sign is a discontinued sign. The following conditions shall be conclusively considered as the failure to operate or maintain a sign: (1) a sign displays advertising for a product or service which is no longer available, or (2) a sign displays advertising for a business which is no longer licensed, or (3) the sign is blank. A discontinued sign includes a sign advertising a business that no longer has a certificate of occupancy or that no longer does business at the location at which the sign is located. A discontinued sign includes a sign for a purpose for which the purpose has lapsed. If the discontinued sign is on a freestanding sign structure that is conforming with the city's Zoning Ordinance and in compliance with the applicable Building Code, then only the sign face will be considered discontinued; however, if the discontinued sign is on a freestanding sign structure that is either nonconforming with the city's Zoning Ordinance or out of compliance with the applicable Building Code, then freestanding sign structure shall be removed.

**Sign, Display Area.** The maximum area of a sign or advertising device that may be seen from one (1) location, that can be enclosed or measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire sign or advertising device; excluding trim, frame, apron, posts, uprights, braces or other structural members, which support it.

**Sign, Double-Faced.** A sign which has two display surfaces backed against the same background, one face of which is designed to be seen from one direction and the other from the opposite direction, every point on which face being either in contact with the other face or in contact with the same background.

**Sign, Drive-Through Lane.** A sign oriented to vehicles utilizing a drive-through lane at an establishment.

**Sign, Electronic Message.** An electronically activated changeable copy sign whose variable message capability can be electronically programmed. Note: In connection with an Electronic Message Sign, there is no vested right to any frequency in the changeable copy or in the brightness level of any light source.

**Sign, Elevated.** A general business sign that is freestanding and placed on top or affixed to structural supports, including poles, posts, uprights and braces, and which provides a minimum eight (8) feet of clearance between the lowest edge of the sign and the surface of the ground, parking, lots, streets or alley directly beneath it.

**Sign, Feather.** A sign extending in a sleeve-like fashion down a telescoping or fixed pole that is mounted in the ground or on a building or stand. A feather sign or flutter sign is usually shaped like a sail or feather, and attached to the pole support on one vertical side.

**Sign, Flutter.** *See also Sign, Feather.*

**Sign, Fixed Aerial Advertising.** An aerial advertising medium tethered to, or controlled from, the ground.

**Sign, Flashing.** Any illuminated sign, on which the artificial source of light is not maintained stationary or constant in intensity and color at all times when such sign is illuminated; a sign that contains an intermittent flashing light source, or which includes the illusion of intermittent or flashing- light, or in which any part of the light source varies in intensity and/or hue, or in which a message constantly flashes on and off, or alternates with other copy. For the purposes of this definition, any moving illuminated sign affected by intermittent lighting shall be deemed a flashing sign. *See also Sign, Blinking.*

**Sign, Freestanding.** A ground sign, elevated sign or any other sign independent of a building or any other structure, supported wholly by uprights, braces or posts in or upon the ground, which support structures shall be considered as part of the sign, except they shall not be included in computing the sign display area. A free-standing (ground) sign may be a pole sign or a monument sign.

**Sign, Government.** Any temporary or permanent sign erected by or on the order of a public official or quasi-public entity at the federal, state or local government level in the performance of any duty including, but not limited to, noncommercial signs identifying a government building or service, traffic control signs, street name signs, street address signs, warning signs, safety signs, informational signs, traffic or other directional signs, public notices of events, public notice of government actions, proposed changes of land use, any proposed rezoning, or any other government speech.

**Sign, Hazard.** A sign warning of construction, excavation, or similar hazards so long as the hazard exists.

**Sign, Height.** *See Sign Height.* The vertical distance measured from lowest grade level directly beneath the sign to the highest point of the sign.

**Sign, Holographic Display.** An advertising display that creates a three-dimensional image through projection, OLED (organic light emitting diode), or any similar technology.

**Sign, Illuminated.** Any sign or portion thereof which is illuminated by artificial light, either from an interior or exterior source, including outline, reflective or phosphorescent light (including but not limited to plasma or laser), whether or not the source of light is directly affixed as part of the sign, and shall also include signs with reflectors that depend upon sunlight or automobile headlights for an image.

**Sign, Indirectly illuminated.** Any sign, the facing of which reflects light from a source intentionally directed upon it.

**Sign, Inflatable or Balloon.** A sign consisting of a flexible envelope of nonporous materials that gains its shape from inserted air or other gas.

**Sign, Ingress and Egress.** A sign at the entrance to or exit from a parcel necessary to provide directions for vehicular traffic or provide a warning for pedestrian and/or vehicular traffic safety.

**Sign, Internally Illuminated.** Any sign which has a source of light not visible to the eye and entirely enclosed within the sign.

**Sign, Marquee.** A sign affixed or inherent with the structure of metal, glass, canvas or other material projecting over and from points of ingress or egress of a building or other structure in nonresidential use.

**Sign, Monument.** A type of freestanding sign that is not supported by a pole structure and is placed upon the ground independent of support from the face of a building and that is constructed of a solid material such as wood, masonry or high-density urethane. A monument sign is not a pole sign.

**Sign, Moving.** Any sign in which the sign itself or any portion of it physically moves or revolves.

**Sign, Multi-prism.** A sign made with a series of multiple sections that rotate and stop, or index, to show multiple images or messages in the same area at different times.

**Sign, Nonconforming.** Any sign that was validly installed under laws or ordinances in effect prior to the effective date of the Zoning Ordinance or subsequent amendments, but which is in conflict with the provisions of the current Zoning Ordinance.

**Sign, Offsite Commercial.** A non-accessory billboard or a sign that displays offsite commercial advertising. In contrast, the term *On-site sign* means any commercial sign which directs attention to a commercial or industrial occupancy, establishment, commodity, good, product, service or other commercial or industrial activity conducted, sold or offered upon the site where the sign is maintained. The on-site/off-site distinction applies only to commercial message signs. For purposes of the Zoning Ordinance, all signs with noncommercial speech messages shall be deemed to be “on-site,” regardless of location.

**Sign, On-Site.** A sign that advertises an activity conducted on the lot or parcel of land on which the sign is located.

**Sign, Painted Wall.** Any sign painted on any surface or roof of any building.

**Sign, Permanent.** Any sign which is intended to be and is so constructed as to be of lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear and tear) and position and in a permanent manner affixed to the ground, wall or building. Unless otherwise provided for herein, a sign other than a temporary sign shall be deemed a permanent sign unless otherwise indicated elsewhere in the Zoning Ordinance.

**Sign, Permanent Door.** Any sign visible from the exterior of a building or structure which is painted, attached, glued, or otherwise affixed to a door.

**Sign, Permanent Window.** Any sign visible from the exterior of a building or structure which is painted, attached, glued, or otherwise affixed to a window.

**Sign, Pole.** A type of ground sign that is supported by one or more poles and otherwise separated from the ground by air. A pole sign is not a monument sign.

**Sign, Portable.** Any sign, banner, or poster that is not permanently attached to the ground or to a structure that is attached to the ground or a sign capable of being transported, including, but not limited to, signs designed to be transported by means of wheels or carried by a person. For purposes of this division, a cold air inflatable sign shall be considered to be a portable sign.

**Sign, Projecting.** Any sign permanently affixed to a building or other structure, extending beyond said building or other structure more than twelve (12) inches beyond the surface of such building or wall and located not less than eight (8) feet above the ground or finished surface of a sidewalk, street, driveway, or alley beneath it.

**Sign, Reader Board.** A freestanding, projecting, wall, roof, or ground sign in the form of a structure or framework on which copy is posted in the form of removable letters or posters.

**Sign, Revolving.** *See Sign, Rotating.*

**Sign, Roof.** Any sign which is mounted on the roof of a building or which extends above the top edge of the wall of a flat roofed building, the eave line of a building with a hip, gambrel, or gable roof.

**Sign, Rotating.** A sign that rotates, revolves or turns or has external sign elements that rotate, revolve or turn. Such sign may be power-driven or propelled by the force of wind or air.

**Sign, Safety.** *See Sign, Warning.*

**Sign, Scrolling.** A sign that by mechanical or electronic means displays a message that moves up, down or across a display screen or surface.

**Sign, Service Island.** A sign mounted permanently on or under a service island canopy.

**Sign, Snipe.** A sign made of any material when such sign is tacked, nailed, posted, pasted, glued or otherwise attached to or placed on public property such as but not limited to a public utility pole, a public street sign, a public utility box, a public fire hydrant, a public right-of way, public street furniture, or other public property; except for A-frame and T-frame signs that are temporarily placed on public property under such limitations and constraints as may be set forth in the Zoning Ordinance.

**Sign, Statutory.** A sign the city is required to erect by any statute of the State of Alabama or the United States for safety, directional, or traffic control purposes.

**Sign, Street Address.** Any sign denoting the street address of the premises on which it is attached or located.

**Sign, Swinging.** A sign which, because of its design, construction, suspension, or attachment, is free to swing or move noticeably because of the wind.

**Sign, T-Frame.** A portable sign utilizing an upright, rigid supporting frame in the form of an inverted “T” style of framing to support the sign.

**Sign, Temporary.** A sign intended for a use not permanent in nature. Unless otherwise provided for in this Zoning Ordinance, a sign with an intended use for a period of time related to an event shall be deemed a temporary sign. A flag shall be deemed a temporary sign.

**Sign, Traffic Control Device.** Any government sign located within the right-of-way that is used as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard. A traffic control device sign includes those government signs that are classified and defined by their function as regulatory signs (that give notice of traffic laws or regulations), warning signs (that give notice of a situation that might not readily be apparent), and guide signs (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information).

**Sign, Tri-vision.** A sign made with a series of triangular sections that rotate and stop, or index, to show multiple images or messages in the same area at different times.

**Sign, Twirling.** Any sign that is twirled or otherwise spun or whirled to attract attention from motorists or drivers of vehicles on public roads and highways.

**Sign, Umbrella.** A sign printed on umbrellas used for legal outdoor seating area at a business establishment, which is made of a lightweight fabric or similar material.

**Sign, Unsafe.** A sign posing an immediate peril or reasonably foreseeable threat of injury or damage to persons or property.

**Sign, Vehicle.** A sign which covers more than twenty (20) square feet of the vehicle, which identifies a business, products, or services, and which is attached to, mounted, pasted, painted, or drawn on a motorized or drawn vehicle, and is parked and visible from the public right-of-way; unless said vehicle is used for transporting people or materials in the normal day to day operation of the business.

**Sign, Prohibited Vehicle; Signs, Prohibited Vehicle.** A total sign area in excess of twenty (20) square feet on any vehicle, and

- a. The vehicle is not "regularly used in the conduct of the business," and
- b. The vehicle is visible from a street right-of-way within fifty (50) feet of the vehicle, and
- c. The vehicle is parked for more than two (2) consecutive hours in any twenty-four (24) hour period within fifty (50) feet of any street right-of-way, and

- d. A vehicle shall not be considered “regularly used in the conduct of the business” if the vehicle is used primarily for advertising, and
- e. This provision is not to be construed as prohibiting the identification of a firm or its principal products on a vehicle operating during the normal hours of business; and which is currently licensed, insured and operable; provided, however, that no such vehicle shall be parked on public or private property with signs attached or placed on such vehicle primarily for the purpose of advertising a business establishment or firm or calling attention to the location of a business establishment or firm.

**Sign, Wall.** Any sign attached and parallel to but not painted directly on, a wall or similar architectural element that is an integral part of a building, and which extends not more than twelve (12) inches from the wall to which it is attached.

**Sign, Wall Wrap.** A sign composed of fabric, plastic, vinyl, Mylar or a similar pliable material that drapes or hangs over the side of a building, wall or window.

**Sign, Warning.** A sign which provides warning of a dangerous condition or situation that might not be readily apparent or that poses a threat of serious injury (e.g., gas line, high voltage, condemned building, etc.) or that provides warning of a violation of law (e.g., no trespassing, no hunting allowed, etc.).

**Sign, Window.** Any sign painted on, attached to or displayed in a window so as to direct attention of persons outside the building to a product or activity on the premises.

**Sign Area.** The square foot area within a continuous perimeter enclosing the extreme limits of the sign display, including any frame or border. Curved, spherical, or any other shaped sign face shall be computed on the basis of the actual surface area. In the case of painted wall signs composed of letters, shapes, or figures, or skeleton letters mounted without a border, the sign area shall be the area of the smallest rectangle or other geometric figure that would enclose all of the letters, shapes and figures. The calculation for a double-faced sign shall be the area of one face only. Double-faced signs shall be so constructed that the perimeter of both faces coincide and are parallel and not more than twenty-four (24) inches apart.

**Sign Height.** The vertical distance from the average finished grade of the ground below the sign excluding any filling, berming, mounding or excavating solely for the purposes of increasing the height of the sign, to the top edge of the highest portion of the sign. The base or structure erected to support or adorn a monument, pole or other freestanding sign is measured as part of the sign height.

**Sign Size.** *See Sign Area.*

**Sign Visibility Triangle.** An isosceles triangle with two (2) twenty-five (25) foot sides extending from the street corner along the curbs, or if no curbs along the edge of pavement of the street.

**Street.** A right-of-way for vehicular traffic, designated as an alley, avenue, boulevard, court, drive, expressway, highway, lane, road, street, or thoroughfare (also referred to as roadway). A street may be dedicated to the public or maintained in private ownership, but open to the public.

**Strip Shopping Center.** A group of commercial-retail establishments planned, developed, owned or managed as a unit with off-street parking provided on the property, with an aggregate of 15,000 to 29,999 square feet of gross building area.

**Structure.** Anything constructed, installed or portable, the use of which requires location on land.

**Subdivision.** The division of land into three (3) or more parcels for the purpose of sale or lease, including the addition to or re-subdivision of land, if not exempted by the terms of the Zoning Ordinance.

**Vested Right.** A right is vested when it has become absolute and fixed and cannot be defeated or denied by subsequent conditions or change in regulations, unless it is taken and paid for. There is no vested right to an existing zoning classification or to have zoning remain the same forever. There can be no vested right in a sign permit if a sign permit is applied for under a sign ordinance that is later partially or wholly adjudicated to be unconstitutional by a court of competent jurisdiction.

### **SECTION 9.3. APPLICABILITY.**

This Section 9 does not pertain and is not applicable to:

- (1) A Sign, other than a Window Sign, located entirely inside the premises of a building or enclosed space.
- (2) A Sign on a car, other than a Prohibited Vehicle Sign or Signs.
- (3) A Statutory Sign.
- (4) A Government Sign.
- (5) A Traffic Control Device Sign.
- (6) Any Sign not visible from a public street, sidewalk or right-of-way or from a navigable waterway or body of water; except that the foregoing does not exempt a sign for a commercial use that is visible from an abutting residential use.

### **SECTION 9.4. PROHIBITED SIGNS.**

The signs and sign types listed below are prohibited within the city limits and shall not be erected, operated or placed on any property, except as may otherwise be provided in this Section IX. Any lawfully existing permanent sign structure or sign type that is among the prohibited signs and sign types listed below shall be deemed a nonconforming sign subject to the provisions of Section 9.10, Nonconforming Signs.

- (1) Billboards.
- (2) Off-Site Commercial Signs.
- (3) Discontinued Signs.
- (4) Abandoned Signs;
- (5) Animated Signs.
- (6) Flashing Signs.
- (7) Moving Signs.
- (8) Blinking Signs.
- (9) Scrolling Signs.
- (10) Twirling Signs.
- (11) Swinging Signs.
- (12) Multi-prism Signs.
- (13) Tri-vision Signs.
- (14) Revolving Signs.
- (15) Rotating Signs.
- (16) Flutter Signs.
- (17) Feather Signs.
- (18) Wind-activated signs, such as streamers, pennants, and balloons, including wind-activated banners, cold air inflatables and other fixed aerial advertising signs or signage, when used for commercial advertising.
- (19) Holographic Display Signs.
- (20) Floodlights and beacon lights used to display messages, except when required by the Federal Aviation Administration.
- (21) Bandit Signs.
- (22) Snipe Signs.
- (23) Signs nailed, fastened, affixed to, or painted on any tree or part thereof (living or dead), or other vegetation.

- (24) Signs that emit sound, vapor, smoke, odor, or gaseous matter.
- (25) Signs attached to a dock, buoy, tie pole or pier; other than Warning Signs, Hazard Signs and Safety Signs.
- (26) Signs in or upon any body of water within the limits of the City; except Warning Signs, Hazard Signs, and Safety Signs.
- (27) Pavement markings, except for official traffic control markings and building address markings required by law or as approved by city council resolution.
- (28) Signs within a Sight Visibility Triangle obstructing a clear view of pedestrian or vehicular traffic.
- (29) Portable Signs, except for A-Frame and T-Frame Signs as allowed in this Section.
- (30) Roof Signs.
- (31) Bus Bench Advertising Signs and Bus Shelter Advertising Signs.
- (32) Attached Signs that are taller than the wall of the building to which the sign is attached.
- (33) Attached Signs that exceed two hundred fifty (250) square feet in sign area.
- (34) Freestanding Signs which are higher than thirty (30) feet.
- (35) Freestanding Signs that exceed three hundred (300) square feet in sign area.
- (36) Signs that have either deteriorated or been damaged to such an extent that the cost of reconstruction or restoration of such sign is in excess of fifty percent (50 %) of its replacement value exclusive of its foundation.
- (37) Signs, other than traffic control device signs, that use the word “stop” or “danger,” or present or imply the need or requirement of stopping or the existence of danger, or which are a copy or imitation of traffic control device signs and which are adjacent to the right-of-way of any road, street, or highway.
- (38) Signs that obstruct, conceal, hide or otherwise obscure from view any traffic control device sign or official traffic signal.
- (39) Signs that are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled public rights-of-way thereby creating a potential traffic or pedestrian hazard or a nuisance to inhabitants of an adjacent neighborhood. No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.
- (40) Signs that contain any food or other substance that attracts large numbers of birds or other animals and causes them to congregate on or near the sign.

- (41) Wall Wrap Signs.
- (42) Prohibited Vehicle Sign or Signs.
- (43) Signs in, on, or over the public right-of-way; other than Government Signs, A-Frame Signs or T-Frame Signs as allowed herein, Projecting Signs, as allowed herein, and Awning Signs or attached Canopy Signs over a public right-of-way as allowed herein.
- (44) Signs located on real property without the permission of the property owner.

## **SECTION 9.5. GENERAL PROVISIONS FOR SIGNS.**

The following general sign provisions shall apply to this section and to all lawful conforming and nonconforming signs, unless otherwise indicated.

- (1) Measurement of Sign Size (Sign Area). The area of a sign is measured or calculated as follows:
  - a. Background panel signs. Sign copy that is mounted, affixed, or painted on a background panel or area distinctively painted, textured or constructed as a background for the sign copy, is measured as that area contained within the sum of the smallest rectangles, squares, triangles, parallelograms, circles or ellipses, or combination thereof, that will enclose both the sign copy and the background.
  - b. Background surface signs. The area of a sign consisting of copy mounted as individual letters or graphics against a wall, fascia, or parapet of a building surface or another surface, that has not been painted, textured, or otherwise altered to provide a distinctive background for the sign copy, is measured as the sum of the smallest rectangles, squares, triangles, parallelograms, circles or ellipses that will enclose each word, graphic or discrete visual element in the total sign.
  - c. Illuminated background signs. The area of a sign with copy mounted, affixed, or painted on an illuminated surface or illuminated element or a building or structure, is measured as the entire illuminated surface or illuminated element which contains sign copy.
  - d. Double-faced signs. If a sign has two display faces, and the perimeter of both faces coincide, are parallel, and are not more than twenty-four (24) inches apart, then the sign area is one sign face only. Otherwise, the sign faces are considered to be separate signs and sign faces and subject to any and all applicable restrictions.
  - e. Multi-faced signs. If a sign has three or more faces, then the sign area is equal to fifty percent (50%) percent of the aggregate area of all sign faces. The area of each face shall be determined according to subsection (a) or (b) of this section, as applicable.

f. **Sculptural and nonplanar signs.** When a sign is in the form of a three-dimensional object, the area shall be determined by drawing a square, rectangle, triangle, circle or combination thereof, which will encompass the projected image of the sign and multiplying that area by two (2). The “projected image” is that image created by tracing the largest possible two-dimensional outline of the sign.

g. **Open-letter display area.** An open-letter display area for a wall sign shall be measured by the number of square feet in the smallest rectangle within which all letters, logos, symbols or other elements of the sign can be enclosed.,

(2) **Measurement of Sign Height.**

The height of a freestanding sign shall be measured as the vertical distance from the average finished grade of the ground below the sign excluding any filling, berming, mounding or excavating solely for the purposes of increasing the height of the sign, to the top edge of the highest portion of the sign. The maximum height allowed for a freestanding sign, however, shall not include any architectural embellishment provided the embellishment does not exceed thirty-six (36) inches at the base of the sign and eighteen (18) inches at the top of the sign.

For the purposes of this section, average finished grade shall be considered the lower of (a) the lowest elevation where the base of the sign meets ground level; or (b) the top of the curb of the nearest public street adjoining the property upon which the sign is erected, or (c) the grade of the land at the principal entrance to the lot on which the sign is located with administrative review and approval by the Planning Director according to content-neutral criteria.

(3) **Sign Illumination for Temporary Signs and Permanent Signs.**

a. **Sign illumination is prohibited for temporary signs.**

b. **Permanent sign on a parcel in residential use.** A permanent sign located on a parcel in residential use in any zone may not be separately or specially illuminated, unless otherwise specified in this section.

c. **Permanent sign on a parcel in nonresidential use.** A permanent sign on a parcel in nonresidential use may be illuminated by internal illumination, internal indirect (halo) illumination, or lit by external indirect illumination, unless otherwise specified in this section. However, a permanent sign may not be illuminated in a manner that leaves the illumination device exposed to public view except with the use of neon tubing as provided in subsection (h) of this section.

d. **Internal illumination.** Outdoor internally illuminated signs, including but not limited to awning/canopy signs, cabinet signs (whether freestanding or building mounted), changeable copy panels or service island signs, shall be constructed with an opaque background and translucent letters or other graphical elements, or with a colored background and lighter letters or graphics.

e. External indirect illumination. Externally lit signs are permitted to be illuminated only with steady, stationary, down directed and shielded light sources directed solely onto the sign. Light bulbs or tubes (excluding neon), used for illuminating a sign, shall not be visible from the adjacent public rights-of-way or residential properties.

f. Illumination of signs adjacent to single-family residential uses. No sign located within fifty (50) feet of a property with a single-family use or zoned for a single-family use shall be internally illuminated.

g. Any portion of the sign face or sign structure that is illuminated shall count against the total square footage of allowable sign area.

h. Neon.

(i). Exposed neon. Exposed neon tube illumination is not permitted in residential zones, or for residential uses in any zone. It is allowed in all other places, unless otherwise specified.

(ii). Neon borders. Neon illumination used as a sign copy projection, border, frame or other embellishment of sign copy shall not be included in the total size or area of the sign, provided the measured area of any such projection or detailed embellishment does not exceed twelve (12) square feet in area, or twenty-five percent (25%) of the sign display face area, whichever is greater. If neon embellishments exceed these limits, then the embellishments shall be included and counted as part of the permitted sign area for the use.

(iii.) Devices that illuminate a sign or signs shall be placed and shielded so that the direct light rays reflecting from such devices or from the sign itself shall not be cast into the eyes of any passing motorist.

(4) Viewpoint Neutrality.

Notwithstanding anything in this section to the contrary, no sign or sign structure shall be subject to any limitation based upon the viewpoint of the message contained on such sign or displayed on such sign structure.

(5) Substitution of Noncommercial Speech for Commercial Speech.

Notwithstanding anything contained in this section to the contrary, any sign erected pursuant to the provisions of this section may, at the option of the owner, contain a non-commercial message in lieu of a commercial message and the noncommercial copy may be substituted at any time in place of the commercial copy. The noncommercial message (copy) may occupy the entire sign face or any portion thereof. The sign face may be changed from a commercial message to a noncommercial message or from one noncommercial message to another non-commercial message; provided, however, that there is no change in the size, height, setback or spacing criteria contained in this section.

(6) Consent of Legal Owner of Property.

No sign may be displayed without the consent of the legal owner of the property on which the sign is mounted or displayed. For purposes of this policy, "owner" means the holder of the legal title to the property and any party and person holding a present legal right to possession, control, or use of the property.

(7) Signs on Public Property.

Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be deemed illegal and shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such sign the cost of removal and disposal of such sign. The foregoing shall not apply to temporary A-Frame signs and T-Frame signs as allowed pursuant to the conditions and limitations set forth herein.

(8) Signs That Obstruct Means of Egress.

No sign shall be erected, displayed, or maintained so as to obstruct any fire escape, any required exit way, window or door opening used or intended to be used as a means of egress, or obstruct any other means of egress required by the Building Code.

(9) Signs That Interfere with Ventilation Openings.

No sign shall be erected, displayed, or maintained that interferes with any opening required for ventilation under the Building Code.

(10) Signs Must Maintain Clearance from Utilities and Shall Not Interfere with Surface and Underground Water or with Drainage.

Signs shall maintain a minimum distance of six (6) feet horizontal clearance and twelve (12) feet overhead clearance from electrical conductors and from all communications equipment or lines. Signs and their supporting structures shall maintain clearance from and noninterference with all surface and underground facilities and conduits for water, sewage, electricity, or communications equipment or lines. Sign placement shall not interfere with surface or underground water or with natural or artificial drainage.

(11) Signs Shall Not Be Attached to Certain Property and Shall Not Impair Roof Access.

Signs shall not be attached to standpipes, gutters, drains or fire escapes. Signs shall not be installed so as to impair access to a roof.

(12) Signs Declared a Nuisance and Repair; Signs Presenting Immediate Peril to Public Health or Safety.

The chief building inspector of the building inspection division or his or her designee (a) may order the repair of signs which in his or her professional opinion determines to be a nuisance, (b) with or without notice, may cause any sign determined in his or her professional opinion to be structurally unsafe or structurally insecure, including any sign not securely affixed to the ground or otherwise affixed in a permanent manner to an approved supporting structure, to be immediately removed if in his or her professional opinion the sign presents an immediate peril to the public health or safety, and (c) with or without notice, may order the removal of a sign which in his or her professional opinion has deteriorated or been damaged to such an extent that the cost of reconstruction or restoration of such sign is in excess of fifty percent (50 %) of its replacement value exclusive of any foundation.

(13) Street Address Signs.

For each parcel and for each tenant space, one sign for the official street address shall be displayed for public safety and to serve as visible street address for delivery of mail and official governmental notification.

a. For a parcel in residential use, the street address sign shall not exceed two (2) square feet in sign area.

b. For a parcel in non-residential use, the street address sign shall not exceed four (4) square feet in sign area.

c. The street address sign in a residential use may be externally illuminated and in a non-residential use may be externally or internally illuminated.

(14) Ingress and Egress Signs.

For safety purposes and for traffic circulation purposes, permanent ingress and egress signs to a parcel are permitted provided the same do not exceed four (4) square feet in size and no more than three (3) feet in height. Such signs shall not require a permit.

(15) Flagpoles and Flags; Flag Brackets, Flag Stanchions and Flags.

a. Flagpoles and Flags. For each parcel and development site in residential use with one principal structure, one flagpole may be installed and two (2) flags may be displayed per flagpole. A flag in a residential Zoning District displayed on a flag pole shall not exceed forty (40) square feet in size. For each parcel and development site that is over one-half (1/2) acre in size and is in nonresidential use, up to three flagpoles may be installed and up to two (2) flags may be displayed per flagpole. A flag in a non-residential Zoning District displayed on a flag pole shall not exceed one hundred fifty (150) square feet in size.

b. Flag Brackets, Flag Stanchions, and Flags. For each principal structure on a parcel, up to two flag brackets or stanchions may be attached or placed for the display of flags. A flag displayed from a flag bracket or a flag stanchion shall not exceed twenty-four (24) square feet in size.

c. For the purpose of determining the size of a flag, only one side of the flag shall be counted as the display surface.

d. Flags on parcels in non-residential use may be externally illuminated.

(16) Noncommercial Onsite Parking Space Signs.

Parking space signs identifying parking spaces necessary for traffic safety, regulation, control and circulation. A parking space sign shall carry no commercial message and shall not exceed two (2) square feet of sign face per sign. Parking space signs shall be allowed on each parcel having multiple parking spaces onsite. One such sign shall be allowed for each parking space. The maximum height for a freestanding or an attached parking space sign shall be six (6) feet.

(17) Signs at Convenience Stores with Fuel Islands.

For convenience store with fuel islands, one (1) double-sided sign or two (2) single-sided signs are allowed per island. Such signs shall not exceed four (4) square feet per side and shall not be mounted higher than eight (8) feet. Such signs shall not be mounted on any bollard or barrier designed to protect equipment from damage. Such signs may not be illuminated.

For convenience store with fuel islands, one (1) canopy sign may be installed for each canopy side facing a public street or driveway. A canopy sign shall not exceed ten (10) square feet and shall not be mounted higher than the top of the canopy itself. A canopy sign may be internally illuminated. The square footage of all canopy signs on a canopy shall be counted against the maximum square footage of allowed wall signage for any building wall sign on the same parcel.

(18) Freestanding Signs. A freestanding sign may be a pole sign or a monument sign, unless otherwise restricted and where allowed, and subject to the following:

a. General Requirements. In the C-1, C-2, C-3, M-1, M-2, I-1 and GC Zoning Districts, pole signs and monument signs may display two or more sign surfaces provided there is no spacing or open gap between the sign surfaces, subject to the additional provisions set forth below for single-lot general businesses and for group developments. In the event that a reader board is attached to a freestanding sign, the reader board sign surface shall be no larger than fifty percent (50%) of the principal sign surface area.

b. Single-Lot General Businesses. The maximum area of a freestanding sign shall not exceed one hundred (100) square feet. The maximum height of a freestanding sign shall be twenty (20) feet. Only one (1) freestanding sign is allowed per single-frontage lot; and up to two (2) freestanding signs are allowed for a corner lot or for double-frontage lots. No lot shall have more than two freestanding signs. Notwithstanding the foregoing, freestanding signs are not allowed in the C-1 Zoning District for single-lot general businesses.

c. **Certain Small Group Developments.** For group developments that are comprised of offices or strip mall shopping centers with an aggregate gross building area not to exceed 29,999 square feet, the maximum area of a freestanding sign shall not exceed one hundred twenty (120) square feet, and the maximum height of a freestanding sign shall not exceed twenty (20) feet. For group developments that are comprised of neighborhood shopping centers with an aggregate of 30,000 to 64,999 square feet of building area, the maximum area of a freestanding sign shall not exceed two hundred (200) square feet, and the maximum height of a freestanding sign shall not exceed twenty (20) feet. Only one (1) freestanding sign is allowed for each street frontage of a group development. A freestanding sign for a single tenant of a group development is prohibited.

d. **Group Developments-In General.** Except as set forth in subsection (18)c, for group developments, the maximum area of a freestanding sign shall not exceed three hundred (300) square feet and the maximum height of a freestanding sign shall be thirty (30) feet. Only one (1) freestanding sign is allowed for each street frontage of a group development. A freestanding sign for a single tenant of a group development is prohibited.

(19) **Wall Signs.**

a. Wall signs shall not extend above the top of a building wall.

b. The maximum total display area for wall signs in the R-1, R-1A, R-2, R-3, R-4, R-4M, R-5, R-5M, and PRD Zoning Districts shall be four (4) square feet. Only one wall sign is allowed per residence.

c. The maximum total display area for wall signs in the AP, and FP, Zoning Districts shall be twelve (12) square feet. Only one (1) wall sign is allowed per building.

d. The maximum total display area for wall signs in the C-1, C-2, C-3, M-1, M-2, I-I, R/E, GC, and HOD Zoning Districts are as follows:

(i). On any single lot with 30,000 square feet or less of floor area, the maximum total display area for wall signs shall be the lesser of (a) the display area calculated at one and six-tenths (1.6) square feet of sign area for each lineal foot of exterior wall business frontage, or (b) 200 square feet. The exterior wall business frontage shall be the front exterior wall facing the public right-of-way of a street.

(ii). On any single lot with more than 30,000 square feet of floor area, the maximum total display area for wall signs shall be the lesser of (a) the display area calculated at one and six-tenths (1.6) square feet of sign area for each lineal foot of exterior wall business frontage, or (b) 320 square feet. The exterior tenant wall business frontage shall be the front exterior wall facing the public right-of-way of a street.

(iii). For a Group Development, the maximum total display area for each tenant for an exterior wall sign on the exterior wall business frontage shall be the lesser of (a) the display area calculated at one and six-tenths (1.6) square feet of sign area for each lineal foot of exterior wall business frontage, or (b) 100 square feet. The exterior business wall frontage for each tenant space within a Group Development shall be the front exterior wall facing the public right-of-way of a street.

(iv). For a single building housing multiple businesses, including subtenants as secondary businesses, having a shared entrance, each business may have one wall sign not exceeding sixteen (16) square feet on the exterior wall business frontage; provided, however, that the aggregate display area for all wall signs on the exterior wall business frontage shall not exceed two hundred (200) square feet. The exterior wall business frontage shall be the front exterior wall facing the public right-of-way of a street.

e. One (1) wall sign is allowed for each face of a building or part of a building that is occupied by a permitted or conditional non-residential use. The size (area) of the wall sign for an occupant or a tenant shall be the lesser of: (i) two hundred fifty (250) square feet, or alternatively (ii) one (1) square foot per one (1) linear foot of building frontage for a single occupant building or one (1) square foot per one (1) linear foot of building frontage for the occupant or tenant space in a multi-tenant development, each as measured on the street toward which the wall sign is oriented. A wall sign shall not extend higher than the building wall to which it is attached. Up to fifty percent (50%) of the wall sign surface may consist of a changeable copy sign; provided, however, that the sign copy of the changeable copy sign shall not change more than once in any twenty-four (24) hour time period. The wall sign shall not project more than twelve (12) inches from the wall. If the wall sign projects more than two and one-half (2 ½) inches from the wall, the wall sign shall be mounted so that the bottom of the wall sign is at least nine (9) feet above ground at finished grade below the wall sign. The wall sign may be illuminated.

f. In addition to any wall sign allowed above, one (1) permanent wall sign may be allowed for a parcel in educational, religious or public use. The wall sign shall not exceed thirty two (32) square feet in sign area and shall not exceed eight (8) feet in height. The wall sign may be illuminated. However, this additional permanent wall sign shall not be allowed if there is an additional monument sign on the same parcel.

(20) Drive-Through Lane Signs.

For a drive-through establishment, an additional display sign is allowed for each drive-through lane provided that such sign does not exceed forty (40) square feet in size and does not exceed eight (8) feet in height. The additional display sign may be internally illuminated and may emit sound only as part of a business transaction.

(21) Umbrella Signs.

For each table in an outside seating area for a licensed business establishment, one (1) umbrella sign per umbrella is allowed. An umbrella sign shall not exceed three (3) square feet in area and shall not exceed eight (8) feet in height. An umbrella having an umbrella sign shall be mounted on or in the table or in an umbrella holder adjacent to the table. A sign permit is not required for an umbrella sign.

(22) Awning Signs.

For each awning, one sign is allowed. The awning sign shall not exceed an area greater than thirty (30) percent of the surface area of the awning or canopy. The total square footage of the awning sign shall count toward the maximum square footage of the wall sign area allowed for a parcel or a tenant. An awning sign may be internally illuminated.

(23) Canopy Signs.

For each canopy, one sign is allowed. Except for the sign area limitation for canopy signs at convenience store with fuel islands, a canopy sign shall not exceed an area greater than thirty (30) percent of the surface area of the canopy. The total square footage of the canopy sign shall count toward the maximum square footage of the wall sign area allowed for a parcel or a tenant. A canopy sign may be internally illuminated.

(24) Changeable Copy Signs.

a. As part of a permitted on-premise freestanding sign or wall sign and notwithstanding Section 9.4, Prohibited Signs, or any other provision of this Section IX to the contrary, an on-premise changeable copy sign, manual or electronic (LED), may be installed. The changeable copy sign shall not exceed fifty percent (50%) of allowable area of the freestanding sign or wall sign.

b. Notwithstanding Section 9.4, Prohibited Signs, or any other provision of this Section IX to the contrary, the static display time for each message on an on-premise changeable copy sign shall be at least ten (10) seconds, and the time to change from one (1) message to another shall be no greater than two (2) seconds. There shall be no vested right to the display time for an on-premise changeable copy sign. The length of time for the message to remain static may be changed by future regulation to a shorter or longer dwell time based upon traffic safety and/or other factors deemed relevant by the City Council. In no event shall the message scroll in any direction. On-premise changeable copy signs shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of public right of way of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle. On-premise changeable copy signs shall not be erected or maintained which shall be so illuminated that they obscure or interfere with any official traffic signs, device, or signal. To ensure driver safety, changeable copy signs must include a default designed to freeze a display in one (1) position if a malfunction occurs. On-premise changeable copy signs must have a process for modifying displays and lighting levels where and if directed by the Alabama Department of Transportation or the City Engineer to assure safety of the motoring public.

## (25) Projecting Signs.

a. For buildings in the Downtown Commercial Zoning District (C-1), one (1) projecting sign is allowed for each ground floor occupant or tenant space. The projecting sign shall be attached to the building frontage on the street or driveway on which the sign is located.

b. The maximum size of a projecting sign shall be the lesser of (a) sixteen (16) square feet or (b) one (1) square foot per linear foot of occupant or tenant building frontage on the street or private driveway on which it is located; however, the square footage of a projecting sign shall count toward the maximum square footage of wall signage allowed for the building.

c. The maximum thickness of the sign face of a projecting sign shall not exceed twenty-four (24) inches when such sign is of solid construction.

d. The minimum vertical clearance of a projecting sign shall be nine (9) feet, and shall not be mounted higher than the wall of the building.

e. A projecting sign that extends over a sidewalk in the public right-of-way shall be limited to a projection distance not to exceed two-thirds (2/3) of the width of the sidewalk. A projecting sign may be illuminated.

## (26) Window Signs.

Permanent window signs are permitted provided that the window sign may not cover more than thirty percent (30%) of the area of any window. Permanent window signs may be internally illuminated. A sign permit is not required for a permanent window sign.

## (27) Door Signs.

Permanent door signs are permitted provided that the permanent door sign may not cover more than thirty percent (30%) of the area of any door. Permanent door signs shall not be illuminated. A sign permit is not required for a permanent door sign.

## (28) Wind-activated signs.

Permanent wind-activated signs when used for commercial advertising are prohibited in all zoning districts.

## **SECTION 9.6. TEMPORARY AND PERMANENT SIGNS ALLOWED IN ZONING DISTRICTS.**

(1) The signage rights and responsibilities for temporary signs and permanent signs shall be determined by the provisions of Section 9.5, General Provisions for Signs, and by the sign provisions for the zoning districts as set forth below in Section 9.7, Temporary Signs Allowed in Zoning Districts, and Section 9.8, Permanent Signs Allowed in Zoning Districts.

(2) However, in connection with residential uses in nonresidential zoning districts and nonresidential uses in residential zoning districts, the signage rights and responsibilities applicable to any particular use shall be determined as follows:

a. In a residential zoning district where a nonresidential use is allowed, whether as a matter of right or by way of a conditional use permit or other process with stated criteria governing the allowance of the nonresidential use, the nonresidential use shall be treated as if it was located in a zoning district where the nonresidential use would be allowed, either as a matter of right or subject to a conditional use permit or other process with stated criteria governing the allowance of the nonresidential use; and

b. In a nonresidential zoning district where a residential use is allowed, the residential use shall be treated as if it was located in the residential zoning district where that type of use would be allowed as a matter of right.

#### **SECTION 9.7. TEMPORARY SIGNS ALLOWED IN ZONING DISTRICTS.**

(1) Within its zoning districts and subject to any applicable provisions with Section 9.5, General Provisions for Signs, the City shall allow temporary signs that meet the criteria and limitations set forth in Table 9.7.1a and Table 9.7.1b, shown below.

(2) A temporary government sign shall not require a sign permit and shall be allowed in all zoning districts on public property and public rights-of-way unless otherwise provided herein. However, the foregoing shall have no impact on any separate requirements established by state statute for building permits, electrical permits or other statutory permits.

(3) A temporary sign displayed on a window surface must be displayed on the inside of the window surface, shall cover no more than thirty (30%) of the window surface, and shall not be illuminated.

**TABLE 9.7.1a. CRITERIA AND LIMITATIONS FOR  
TEMPORARY A-FRAME AND T-FRAME SIGNS  
IN THE C-1, C-2, C-3, VC, PUD, AND R/E ZONING DISTRICTS**

<b>TEMPORARY A-FRAME AND T-FRAME SIGNS</b>	
Maximum Number of Signs	1 per business
Maximum Width	3 feet
Maximum Height	3-1/2 feet
Minimum Setback/Distance from Curb	1 foot
Maximum Width of Public Sidewalk that the Sign May Obstruct	No more than one third of width of public sidewalk
Maximum Distance of Sign from Main Entrance to Business	10 feet
Duration Allowed	Only during hours while business is open
Allowed on Public Property and Right-of-Way	Yes
Allowed in a Sight Visibility Triangle	No
Illumination Allowed	No

**TABLE 9.7.1b. CRITERIA AND LIMITATIONS FOR  
ALL OTHER TEMPORARY SIGNS IN ALL ZONING DISTRICTS**

<b>CRITERIA AND LIMITATIONS</b>			
<b>ZONING DISTRICTS</b>	<b>R-1, R1-A, R-2, R-3, R-4, R-4M, R-5, R-5M, VR, PRD, PUD</b>	<b>C-1, VC C-2, C-3, M-1, M-2, I-1</b>	<b>AP, PUD, R/E, FP, GC, HOD</b>
Maximum Number of Temporary Signs Per Parcel <sup>2</sup>	8	4	4
Maximum Sign Size (Area) for a Temporary Sign <sup>3</sup>	8 sf.	32 sf.	32 sf.
Maximum Sign Height for a Temporary Freestanding Sign <sup>4</sup>	6 ft.	6 ft.	6 ft.
Maximum Sign Height for a Temporary Wall Sign (inclusive of a Window Sign)	15 ft.	15 ft.	15 ft.
Minimum Sign Setback required to be maintained by a Temporary Ground Sign from any property line <sup>5</sup>	3 ft.	3 ft.	3 ft.
Minimum Sign Setback required to be maintained by a Temporary Ground Sign from the edge of any paved street or road	3 ft.	3 ft.	3 ft.
Minimum Spacing that is required to be maintained by a Temporary Ground Sign from any other Temporary Ground Sign <sup>6</sup>	15 ft.	15 ft.	15 ft.
Maximum Aggregate Surface Area Allocated for All Temporary Signs on a Parcel <sup>7</sup>	64 sf.	128 sf.	128 sf.
Whether Temporary Sign is Allowed on Public Property or Public Right-of-Way	No	No	No
Allowed in a Sight Visibility Triangle	No	No	No
Direct Illumination of Surface of Temporary Sign Allowed	No	No	No
Duration allowed after event ends	7 calendar days	7 calendar days	7 calendar days

<sup>2</sup> The number of temporary commercial signs per parcel shall be no more than two (2) signs; however, no more than one temporary commercial sign per parcel may be a banner sign and a temporary commercial banner sign is limited to a maximum duration of display of no more than thirty (30) days per calendar year per parcel.

<sup>3</sup> The square footage limitation is per side for a back-to-back sign. For example, a four (4) square foot limitation means that there is a limit of four (4) square feet of surface area per side of a back-to-back sign, and an aggregate limit of eight (8) square feet is allowed if the sign is a back-to-back temporary sign.

<sup>4</sup> Not applicable to signs displayed on flagpoles.

<sup>5</sup> Minimum sign setbacks do not apply to wall signs. Except as set forth in Section 9.7.1a for A-Frame Signs and T-Frame Signs, all Temporary Signs are prohibited on public property and from public rights-of-way.

<sup>6</sup> Not applicable to signs displayed on flagpoles.

<sup>7</sup> There is no limit to the number of separate messages that may appear on the allowable surface(s) of any Temporary Sign. The maximum aggregate surface area allowed is subject to circumstances that may reduce the maximum aggregate surface area allowable on some parcels.

## SECTION 9.8. PERMANENT SIGNS ALLOWED IN ZONING DISTRICTS.

Within its zoning districts and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in the subsections below. Unless otherwise provided herein, a permanent sign shall require a sign permit; however, a government sign on public property or public rights-of-way shall not require a sign permit and shall be allowed in all zoning districts on public property or public rights-of-way unless otherwise provided herein. The foregoing shall have no impact on separate requirements established by state statute for building code permits or other code permits.

(1) Within the Rural Zoning District, Residential Transition Zoning District, Low Density Residential Zoning Districts, Medium Density Residential Zoning Districts, and Village Residential Zoning Districts (R-1, R-1A, R-2, R-3, and VR Zoning Districts) and subject to the provisions with Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(1) below.

**TABLE 9.8(1)**

Rural, Residential Transition, Low Density Residential, Medium Density Residential, and Village Residential Districts (R-1, R-1A, R-2, R-3, and VR)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Not Allowed	N/A
Signs at Convenience Store with Fuel Islands.	Not Allowed	N/A
Freestanding Signs	Not Allowed	N/A
Wall Signs	Not Allowed	N/A
Drive-Through Lane Signs	Not Allowed	N/A
Umbrella Signs	Not Allowed	N/A
Awning Signs	Not Allowed	N/A
Canopy Signs	Not Allowed	N/A
Changeable Copy Signs	Not Allowed	N/A
Projecting Signs	Not Allowed	N/A
Window Signs	Not Allowed	N/A
Door Signs	Not Allowed	N/A
Wind-Activated Signs	Not Allowed	N/A

(2) Within High Density Residential and Multi-Family Residential Zoning Districts (R-4, R-4M and R-5, R-5M Zoning Districts) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(2) below.

**TABLE 9.8(2)**

High Density Residential and Multi-Family Residential Zoning Districts (R-4, R-4M, R-5, and R-5M Zoning Districts)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands.	Not Allowed	N/A
Freestanding Signs	Allowed as per Section 9.5(18)	Permit Required
Wall Signs	Not Allowed	N/A
Drive-Through Lane Signs	Not Allowed	N/A
Umbrella Signs	Not Allowed	N/A
Awning Signs	Not Allowed	N/A
Canopy Signs	Not Allowed	N/A
Changeable Copy Signs	Not Allowed	N/A
Projecting Signs	Not Allowed	N/A
Window Signs	Not Allowed	N/A
Door Signs	Not Allowed	N/A
Wind-Activated Signs	Not Allowed	N/A

(3) Within the Downtown Commercial Zoning District, Office/Retail Zoning District, General Commercial Zoning District, and Village Commercial Zoning District (C-1, C-2, C-3, and VC Zoning Districts) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(3) below.

**TABLE 9.8(3)**

Downtown Commercial Zoning District, Office/Retail Zoning District, General Commercial Zoning District, and Village Commercial Zoning District (C-1, C-2, C-3 and VC Zoning Districts)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with fuel islands.	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs for the C-1, C-2, C-3 and VC Zoning Districts	Not Allowed	N/A

(4) Within the Industrial Zoning Districts (M-1 and M-2 Zoning Districts) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(4) below.

**TABLE 9.8(4)**

Industrial Zoning Districts (M-1 and M-2)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs for the M-1 and M-2 Zoning District	Not Allowed	N/A

(5) Within the Institutional Zoning District (I-1) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(5) below.

**TABLE 9.8(5)**

Institutional Zoning District (I-1 Zoning District)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Allowed as per Section 9.5(25)	Sign Permit Required
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs	Not Allowed	N/A

(6) Within the Airport Zoning District (AP) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(6) below.

**TABLE 9.8(6)**

Airport Zoning District (AP Zoning District)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Allowed as per Section 9.5(25)	Sign Permit Required
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs	Not Allowed	N/A

(7) Within its Planned Residential Development Zoning District (PRD) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(7) below.

**TABLE 9.8(7)**

Planned Residential Development Zoning District (PRD Zoning District)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs	Not Allowed	N/A

(8) Within a Planned Unit Development Zoning District (PUD) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the following criteria and limitations: For residential uses within an approved PUD, the City shall allow the permanent signs that meet the criteria in Table 9.8(2). For non-residential uses and for commercial uses within in an approved PUD, the City shall allow the permanent signs that meet the criteria in Table 9.8(3). The criteria for permanent signs within an approved PUD may be revised by the City Council as necessary to meet the particular needs within a planned unit development on a case by case basis.

(9) Within its Retail/Entertainment Zoning District (R/E) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(9) below.

**TABLE 9.8(9)**

Retail/Entertainment Zoning District (R/E Zoning District)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands.	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs	Not Allowed	N/A

(10) Within its Flood Plain Overlay Zoning District (FP) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(10) below.

**TABLE 9.8(10)**

Flood Plain Overlay District (FP Zoning District)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands.	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs	Not Allowed	N/A

(11) Within its Gateway Corridor Overlay Zoning Districts (GC Zoning District) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(11) below.

**TABLE 9.8(11)**

Gateway Corridor Overlay District (GC Zoning Districts)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs	Not Allowed	N/A

(12) Within its Hospitality Overlay Zoning District (HOD) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(12) below.

**TABLE 9.8(12)**

Hospitality Overlay District (HOD Zoning District)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs	Not Allowed	N/A

## **SECTION 9.9. BUILDING PERMITS.**

It shall be unlawful for any person or business or the person in charge of the business to erect, construct, alter or maintain a sign structure, without first obtaining a building permit from the city in accordance with the provisions of the Building Code and applicable law. Permit fees for a building permit shall be paid in accordance with the applicable city fee schedules. The requirement of a building permit under the building code of the city is a separate and independent of the requirement for a sign permit under this section.

## **SECTION 9.10. SIGN PERMITS.**

(1) Temporary signs do not require a sign permit.

(2) Unless exempt from permitting, no permanent sign shall be erected, altered, relocated, maintained or displayed until a sign permit is obtained from and the appropriate fee paid to the city. The sign permit is in addition to any building permit required to be obtained pursuant to the provisions of the building code of the City.

(3) No sign permit shall be issued for the erection of a prohibited sign.

(4) A sign lawfully erected may be repainted or have ordinary and customary repairs performed, including replacement of plastic or glass panels, without a sign permit; however, if such sign is to be structurally altered in any manner, a new sign permit shall be required and the altered sign must meet all requirements of this Section IX, the Zoning Ordinance and the Code.

(5) Exceptions from permitting. Temporary signs shall not require a sign permit. Unless identified in the tables in Section 9.7 as not requiring a sign permit and unless otherwise excepted from requiring a sign permit such as a government sign, all permanent signs shall require a sign permit. However these exemptions in no way waive any requirement set forth in the Building Code of the City; or any limitation or restriction on the number, size, height, setback, placement or duration of such signs under this section, or any limitation or restriction under any other applicable law or regulation.

(6) Permits not required for change of sign copy. No permit or permit fee shall be required for changing the copy of a sign, as long as no changes are made to the sign's height, size, location, or structure. This exemption shall also apply to any change of copy on a changeable copy sign.

(7) Sign permit applications. A sign permit application for a permanent sign as may be required by this section shall be prepared and submitted on forms available at the Department of Planning. The sign permit application is in addition to any building permit application required by the Building Code of the City. The applicant shall furnish the following information on or with the sign permit application form:

a. Name, address, telephone number, and e-mail address (if available) of the person making application for the permit. If the applicant is anyone other than the

property owner, the applicant shall provide written authorization from the property owner permitting the installation of the sign.

b. Name, address, telephone number, and e-mail address (if available) of the property owner. If the owner is an entity other than an individual, list the contact person's name.

c. Name, address, telephone number, and e-mail address (if available) of the business tenant, if applicable. If the tenant is an entity other than an individual, list the contact person's name.

d. Name, address, telephone, e-mail address (if available), and license number of the contractor, if applicable. If the contractor is an entity other than an individual, list the contact person's name.

e. Address and legal description of the property upon which the sign is to be located. The legal address may be located on a certified boundary survey.

f. Lot frontage on all streets and public rights-of-way.

g. Indicate in feet and inches the location of the sign in relation to property lines, public rights-of-way, easements, overhead utility lines, other utility facilities and equipment, buildings and other signs on the property.

h. Freestanding signs, including monument signs, shall require an accurate boundary survey signed and sealed by a land surveyor or engineer licensed in Alabama showing the proposed location of the sign.

i. For all wall mounted signs, the facade elevation with dimensions, drawn to scale. Windows and doors and other openings shall be delineated and their dimensions given.

j. Sign dimensions and elevation, drawn to scale.

k. Maximum and minimum height of the sign measured from finished grade.

l. Dimensions of the supporting members of the sign.

m. Sign illumination, specifying illumination type, placement, and intensity.

n. Two (2) copies of the plans, specifications, calculations and details, signed and sealed as required by the building code of the city; and specifications documenting the applicable wind load and electrical specifications, if applicable, meeting the minimum requirements of the applicable Electric Code.

o. Number, type, location and surface area of all existing signs on the same property.

- p. Landscape plan, as applicable.
  - q. Notarized signature of applicant. If the value of construction is \$2,500.00 or greater, a certified copy of notice of commencement shall be required prior to permit issuance.
- (6) Sign construction specifications.
- a. Building Code. The erection of signs shall be in accordance with the structural requirements set forth in the Building Code.
  - b. National Electrical Code. Signs having electrical connections of any kind shall be wired in accordance with the National Electrical Code.
  - c. Inspections. Any sign having an electrical connection shall be permitted, inspected and approved by the electrical inspector prior to its completion. All sign structures shall be inspected and approved by the building official. The inspection point shall be selected by the building official. All excavations for concrete sign support bases shall be inspected and approved by the building official prior to the pouring of concrete.
  - d. Support requirements. The supporting members of all signs shall be free of any external bracing such as guy wires or cables. All supporting columns shall be designed as integral or architectural features of the sign.
  - e. Materials. Paper or cardboard signs and cloth or plastic fabric banners may only be used in conjunction with a special event as provided herein. However, paper or cardboard signs may be used for indoor window or election signs, when such are allowed.
  - f. Construction standards. All signs shall be installed and constructed in a professional and workmanlike manner; and shall be maintained in good and safe structural condition and good physical appearance. All exposed structural components shall be painted, coated, or made of rust inhibitive material.
- (7) Design requirements. Sign work on all permanent signs shall ensure that all the letter strokes are vertically plumb or evenly slanted, and with alignment true and horizontally level. All signs and sign structures, except temporary signs and except for prohibited signs such as billboards and off-site commercial signs, shall be subject to the design requirements below.
- a. Monument signs. Monument sign structures may extend above the allowable height and/or permitted horizontal dimension for the purposes of architecturally embellishing and enhancing the appearance of the sign structure. Such extensions shall not exceed thirty-six (36) inches for the base, eighteen (18) inches at the top of the sign, or twelve (12) inches for each vertical side of the sign.
  - b. Tenant panels in monument signs. All tenant panels in a monument sign, including those added to an existing sign structure, shall be constructed of similar materials and illuminated by a similar method.

c. Wall signs. Wall signs shall not be installed to cover windows, doors, or other types of fenestration.

d. Manufactured Signs. All manufactured signs requiring a sign permit shall have a permanent and visible weatherproof identification plate affixed to the sign exterior. The plate shall identify (1) the name of the manufacturer, (2) the date of installation, (3) the sign permit number, and (4) the electric permit number (if any) with the input VA (Volt Amperes) at full load for electric.

(8) Sign permit application review.

a. An applicant shall submit a sign permit application for a permanent sign to the Director of the Planning Department, or such other person or office as may be designated by the City. The sign permit application shall be reviewed for a determination of whether the proposed sign meets the applicable requirements of this section and any applicable provisions of the City's Zoning Ordinance and Code of Ordinances. Whenever required by state statute, the explanation for a denial of a sign permit shall include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit; in the event that the applicant fails to receive a statutorily required explanation, the applicant shall submit a written request for the explanation to the city's planning director via certified mail.

(i). The review of the sign permit application shall be completed within thirty (30) calendar days following receipt of a completed application, not counting the day of receipt

(ii). A sign permit shall either be approved, approved with any condition that is specifically described and set forth in the Zoning Ordinance or the Code of Ordinances, or disapproved, and the decision shall be reduced to writing. A disapproval shall include or be accompanied by a statement of the reason(s) for the disapproval.

(iii). In the event that no decision is rendered within thirty (30) calendar days following submission, not counting the day of receipt the application shall be deemed denied and the denial shall be a final decision of the City if the applicant chooses not to seek reconsideration at that time. At any time within sixty (60) calendar days, not counting the day of receipt following passage of the thirty (30) calendar day period, the applicant may submit a written request via certified mail to the city and request a decision setting forth the reason that the application was not approved and the city shall promptly respond within ten (10) calendar days after receipt of the written request, not counting the day of receipt by providing a written explanation of the reason(s) for the non-approval of the application for the permanent sign.

b. An approval, an approval with conditions, or disapproval by the Director of Planning shall be deemed the final decision of the City upon the application.

c. In the case of an approval with conditions or a disapproval, including a disapproval by lapse of time as described herein, an applicant may ask for reconsideration

of the decision on the grounds that the Director of Planning may have overlooked or failed to consider any fact(s) that would support a different decision.

(i). A written request for reconsideration accompanied by such additional fact(s) that address the deficiencies that the applicant wants the Director of Planning to consider, shall be filed with the Director of Planning within fourteen (14) calendar days after the date of the written decision. No fee shall be required for a request for reconsideration.

(ii). Upon the timely filing of a request for reconsideration, the decision of the Director of Planning or designee shall be deemed stayed and not a final decision, until the request for reconsideration is decided. The request for reconsideration shall be decided within fourteen (14) calendar days of receipt by the city, not counting the day of receipt. Such decision shall be in writing and shall include a statement of the reason(s) for the decision. In the event that no decision is rendered within fourteen (14) calendar days following the request for reconsideration, the application shall be deemed denied and the denial shall then be a final decision of the City. At any time within sixty (60) calendar days, following passage of the fourteen (14) calendar day period, the applicant may submit a written request via certified mail to the city and request a decision setting forth the reason for the denial of the request for reconsideration and the City shall promptly respond within ten (10) calendar days after receipt of the written request, not counting the day of receipt, by providing a written explanation of the reason(s) for not approving the application upon reconsideration.

d. All decisions shall be mailed, transmitted electronically, or hand delivered to the applicant. A record shall be kept of the date of mailing, electronic transmittal, or hand delivery. For the purposes of calculating compliance with the thirty (30) day deadline for a decision upon an application or the fourteen (14) day deadline for a decision upon request for reconsideration, the decision shall be deemed made when deposited in the mail, transmitted electronically, or hand delivered to the applicant.

e. As exceptions to the foregoing, the thirty (30) day deadline for approval and the fourteen (14) day deadline for a decision upon receipt of a request for a reconsideration shall not apply (that is, the time shall be suspended):

(i). In any case in which the application requires a rezoning of the property, or an amendment to the Comprehensive Plan of the City, then upon written request of the applicant delivered to the Director of Planning by certified mail before the applicable deadline, the time shall be suspended until a final decision is made upon the application for the variance, rezoning, or comprehensive plan amendment.

(ii). If the applicant is required to make any change to the application in order to obtain an unconditional approval so as to satisfy an express provision of state law, the Zoning Ordinance, or the Code of Ordinances, then upon the written request of the applicant delivered by certified mail to the Director of Planning before the applicable deadline, the time shall be suspended while the applicant makes such change.

(iii). If an applicant is required by state statute or by any express provision of either the Zoning Ordinance or the Code of Ordinances, to obtain an approval of the sign from any other governmental agency, then upon the request of the applicant in writing delivered by certified mail before the applicable deadline, the time shall be suspended. The time shall remain suspended until such approval is obtained or until the applicant requests in writing delivered by certified mail to the Director of Planning that the City take final action.

(iv). In any of the foregoing cases, the applicant may elect to not make any changes to the application or to not obtain an approval that may be required by another governmental agency, and may instead demand in writing a final decision upon the sign permit application as filed. Such a written demand shall be delivered by certified mail to the director of planning. In such event, the Director of Planning shall make a decision on the application as appropriate within thirty (30) calendar days after receiving such demand. If a decision is not made in such a time, the application shall be deemed denied.

f. Any person aggrieved by the decision of the Director of Planning upon a sign permit application, or aggrieved by any failure by the Director of Planning or by any other city official to act upon a sign permit application in accordance with the Zoning Ordinance, shall have the right to seek judicial review by or relief from the Circuit Court, or by any other court of competent jurisdiction, filed in accordance with the requirements of law, seeking such appropriate remedy as may be available.

g. If an applicant believes that his or her speech rights are being denied due to enforcement of subsection (8)c. or (8)e., above, he or she may immediately contact the planning department director, in writing via certified letter, and request immediate review of any pending sign permit application. If such a letter is received by the planning department director, the City shall have twenty (20) calendar days to review the permit application as under subsection (8)a., above, notwithstanding the provisions of subsection (8)c or (8)e., above. If the Director of the Planning Department does not respond to the applicant following receipt of the certified letter, the substance of the applicant's complaint shall be deemed rejected.

h. If an application is deemed incomplete, the applicant may either take steps to submit a complete application or challenge the City's decision by seeking judicial review by or relief from the Circuit Court or by any other court of competent jurisdiction, filed in accordance with the requirements of law, seeking such appropriate remedy as may be available.

(9) Sign permit fees. Before issuance of a permit, the Director of Planning shall collect the necessary sign permit fees. The sign permit fees shall be as designated by resolution or ordinance of the City Council.

(10) Inspection. The Director of Planning may make or require any inspections to ascertain compliance with the provisions of this Section IX and the Zoning Ordinance.

(11) Revocation of sign permit. If the work under any sign permit is proceeding in violation of this Section IX, the Zoning Ordinance, or the Building Code, or should it be found

that there has been any false statement or misrepresentation of a material fact in the application or plans on which the sign permit was based, the permit holder shall be notified of the violation. If the permit holder fails or refuses to make corrections within ten (10) calendar days, it shall be the duty of the Director of Planning to revoke such sign permit and serve notice upon such permit holder. Such notice shall be in writing and signed by the Director of Planning. It shall be unlawful for any person to proceed with any part of work after such notice is issued.

#### **SECTION 9.11. NONCONFORMING SIGNS.**

All signs that are lawfully in existence or are lawfully erected and that do not conform to the provisions of this Section IX or the Zoning Ordinance are declared nonconforming signs. It is the intent of this section to recognize that the eventual elimination of nonconforming signs as expeditiously and fairly as possible is as much a subject of health, safety, and welfare as is the prohibition of new signs that would violate the provisions of this section. It is also the intent of this section that any elimination of nonconforming signs shall be effected so as to avoid any unreasonable invasion of established property rights.

(1) Legal nonconforming signs:

a. A legal nonconforming sign is a sign that lawfully existed at the time of the enactment of this section that does not conform to the regulations as specified in this section.

b. A legal nonconforming sign may continue to be utilized only in the manner and to the extent that it existed at the time of the adoption of this section or any amendment thereof.

c. A legal nonconforming sign may not be altered in any manner not in conformance with this section. This does not apply to reasonable repair and maintenance of the sign or to a change of copy provided that by changing the copy structural alterations are not required.

d. Any building permit for an addition, alteration, or improvement valued at more than fifty (50) percent of the fair market value of the structure or building for work at locations where any nonconforming sign exists shall specify and require that such nonconforming signs located within the boundaries of the development site, and within the limits of the applicant's control, shall be brought into conformance with the provisions of this section, provided that if the nonconforming sign is a type of sign that is prohibited under Section 9.4, Prohibited Signs in All Zoning Districts, it shall be removed.

e. Legal nonconforming signs that are located on a parcel of property that is severed from a larger parcel of property and acquired by a public entity for public use by condemnation, purchase or dedication may be relocated on the remaining parcel without extinguishing the legal nonconforming status of that sign provided that the nonconforming sign:

- (i). Is not increased in area or height to exceed the limits of the zoning district in which it is located;
- (ii). Remains structurally unchanged except for reasonable repairs or alterations;
- (iii). Is placed in the most similar position on the remaining property that it occupied prior to the relocation; and
- (iv). Is relocated in a manner so as to comply with all applicable safety requirements.

After relocation pursuant to this subsection, the legal nonconforming sign shall be subject to all provisions of this section in its new location.

(2) Signs rendered nonconforming:

a. Except as provided in this section, a nonconforming sign may continue in the manner and to the extent that it existed at the time of the adoption, amendment or annexation of the section that rendered the sign nonconforming. This section shall not prohibit reasonable repairs and alterations to nonconforming signs.

b. A nonconforming sign shall not be re-erected, relocated or replaced unless it is brought into compliance with the requirements of this section. An existing monument sign that conforms to the size and height limitations set forth herein, but is otherwise nonconforming, may be relocated a single time to another location on the same parcel.

c. Any nonconforming sign shall be removed or rebuilt in full conformity to the terms of this section if it is damaged or allowed to deteriorate to such an extent that the cost of repair or restoration is fifty (50) percent or more of the cost of replacement of such sign.

(3) Signs for a legal nonconforming use:

a. New or additional signs for a nonconforming use shall not be permitted.

b. A nonconforming sign for a nonconforming use that ceases to be used for a period of one hundred eighty (180) consecutive calendar days or is replaced by a conforming use, shall be considered a prohibited sign and shall be removed or brought into conformance upon establishment of a conforming use.

(4) Signs discontinued:

a. Sign structures that remain vacant, unoccupied or devoid of any message, or display a message pertaining to a time, event or purpose that no longer applies shall be deemed to be discontinued.

b. A nonconforming sign deemed discontinued shall immediately terminate the right to maintain such sign.

c. Within one hundred eighty (180) calendar days after a sign structure has been discontinued, it shall be the responsibility of the property owner or the property owner's authorized agent to remove the discontinued sign and to patch and conceal any and all damage to any other structure resulting from removal of the sign.

d. Removal of a discontinued nonconforming sign shall include all sign support components, angle irons, poles, and other remnants of the discontinued sign that are not currently in use, or proposed for immediate reuse as evidenced by a sign permit application for a permitted sign.

(5) Unsafe Signs:

a. If the building official determines any sign or sign structure to be in an unsafe condition, he/she shall immediately notify, in writing, the owner of such sign who shall correct such condition within forty-eight (48) hours.

b. If the correction has not been made within forty-eight (48) hours, the building official may have the sign removed if it creates a danger to the public safety or have any necessary repairs or maintenance performed at the expense of the sign owner or owner or lessee of the property upon which the sign is located.

(6) Nonconformance of Signs. In addition to the provisions hereinabove, the following provisions shall apply.

a. All existing signs that are not specifically allowed or that do not comply with all the provisions of the Zoning Ordinance shall be considered nonconforming signs and shall not, after the effective date of this Section IX, be relocated, enlarged, structurally altered or extended unless such sign shall be made to comply with all provisions of this Section IX.

b. Any sign that was not specifically allowed or that did not comply with any previous version of the Zoning Ordinance is illegal if the same was relocated, enlarged, structurally altered or extended prior to the effective date of this Section IX unless the same had been made to conform to all the provisions of the Zoning Code prior to the effective date of this Section IX or unless the same received any vested right through a settlement agreement.

c. Normal repairs and repainting of a nonconforming sign is permitted. However, when a nonconforming sign is structurally repaired, damaged or destroyed by any means including neglect to the extent of fifty percent (50%) or more of its replacement value, exclusive of foundations, as determined by the Chief Building Inspector or his or her designee, the nonconforming sign shall not thereafter be restored, unless such sign shall be made to conform to all the provisions of this Section IX. A sign damaged to the extent of fifty percent (50%) or more of its replacement value shall be removed within ninety (90) calendar days by the property owner. In the case of a

billboard that is subject to the jurisdiction of the Alabama Department of Transportation (ALDOT), a billboard shall be considered destroyed when the sign is damaged by an Act of God, fire, wind, flood, earthquake, or other catastrophic occurrence, and where the structure, inclusive of structural supports and stringers, is damaged to the extent of fifty (50%) or more of its then current structural value as determined by an appraisal by ALDOT or its designate agent(s).

d. A new sign shall not be installed on a lot where a nonconforming sign exists until the lot conforms to the provisions of the Zoning Ordinance. A nonconforming sign shall be removed (i) if there is a change in the primary use of the lot or (ii) if the property on the lot is reconstructed, or improved by additions, or a combination of both reconstruction and additions, that exceed more than fifty percent (50%) of the value of the property on the lot. A change in the primary use of a lot shall be determined from the matrix table in Section 7.3 C. of the City's Zoning Ordinance. A change of primary use shall occur when the proposed use is different from the existing use as shown in the matrix table.

e. All existing portable signs still located in any zoning district shall be considered nonconforming and shall be removed unless permitted herein.

f. All existing billboards located in any zoning district, except as permitted in subsection g., below, shall be considered nonconforming and shall be regulated in accordance with the provisions of this Section IX, the Zoning Ordinance and the City Code.

g. For a billboard erected or maintained as the result of a settlement agreement involving the resolution of litigation or threatened litigation prior to the effective date of this Section IX, then such billboard may continue only for so long as and subject to specific and explicit rights granted in any such settlement agreement. In the absence of a specific right that is explicitly provided in a settlement agreement, there shall be no vested right to erect or maintain any billboard. Specifically, there is no vested right in the manner of operation of a billboard or its characteristics, such as brightness or hours of illumination, unless application of new rules is precluded. Further, nothing herein shall provide a defense to any claim or assertion by any affected person that a billboard or its operation constitutes a public or a private nuisance.

## **SECTION 9.12. MISCELLANEOUS PROVISIONS.**

(1) **Maintenance of Sign Location.** For a sign requiring a sign permit, weeds and grass, all foliage shall be kept cut in front of, behind, underneath, and from around the base of the sign for a minimum distance of ten (10) feet from the sign base, and there shall be no rubbish or debris within ten (10) feet of the sign base or underneath the sign.

(2) **Luminance/Brightness Level.** All self-luminous outdoor signs are subject to brightness levels consisting of surface luminosity limits, both during the daytime and nighttime hours. During the daytime (after sunrise and before sunset), the maximum limit of luminosity shall be one thousand (1,000) nits, or 1000 cd/m<sup>2</sup>. During the nighttime hours (after sunset and

before sunrise), there shall be a maximum limit of luminosity of one hundred fifty (150) nits, or 150 cd/m<sup>2</sup>.

(3) Reduction of Non-Digital Billboards through Conversion to, or Replacement by, Digital Billboards. To accomplish the City's goals of reducing billboards in the City, lawful nonconforming non-digital billboards that currently exist within the City may be converted to nonconforming digital billboards based upon the trade ratio, the sunset provision, and the other conditions set forth in the attached Schedule A. No vested rights shall accrue except as specifically set forth in the **Schedule A**, which provides for a minimum trade ratio of 4:1 and a sunset period of twenty-five years.

### **SECTION 9.13. VIOLATIONS; PENALTIES.**

(1) No person shall erect on any premises owned or controlled by that person any sign which does not comply with the provisions of this Section IX.

(2) No person shall maintain or permit to be maintained on any premises owned or controlled by that person any sign which is in a dangerous or defective condition. Any such sign shall be removed or repaired by the owner of the sign or the owner of the premises, or as otherwise provided in this Section IX.

(3) Each sign installed, created, erected or maintained in violation of this Section IX shall be considered a separate violation when applying the penalty portions herein.

(4) Any violation of this Section IX is hereby declared to be a public nuisance.

(5) Both the owners or other persons in charge or control of the sign and owners or other persons in charge or control of the property on which the sign is located are responsible for assuring compliance with Section IX. Any failure or refusal to comply with Section IX shall be in violation and punished as herein provided.

(6) Any person, firm or corporation violating any of the provisions of this Section IX shall, upon conviction, shall be fined not more than \$200.00 plus costs of court. Each day that such a violation continues shall constitute a separate offense.

(7) The City, as an additional or alternative remedy, may institute injunctive, mandamus, or other appropriate action or proceeding in a court of competent jurisdiction to prevent, remove, repair, abate or correct any violation of this Section IX.

### **SECTION 9.14 REMOVAL OF UNLAWFUL AND DANGEROUS SIGNS.**

(1) Removal. The City may order the removal of any sign in violation of this ordinance by written notice to the property owner. If a permit has been issued, such notice shall operate to revoke the permit.

(2) Procedure Following Removal Order. If the sign is not removed within fourteen (14) days after the order of removal, or fourteen (14) days after the date an appeal becomes final, the City shall remove or cause to be removed the sign and collect the cost thereof.

(3) Removal Without Notice. The City shall remove or cause to be removed any sign in violation of this Section IX without giving notice to any party, if:

(a) said sign is upon the public right-of-way or upon other public property; or

(b) said sign imposes an immediate safety threat to the life or health of any members of the public.

(4) Reclamation/Fees. The City may collect any costs incurred by the City in removal of any sign. Signs not claimed will be destroyed after fourteen (14) days.

#### **SECTION 9.15. SEVERABILITY.**

(1) Generally. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section IX is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section.

(2) Severability where less speech results. Without diminishing or limiting in any way the declaration of severability set forth above in subsection (1), above, or elsewhere in this Section IX of the Zoning Ordinance, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.

(3) Severability of provisions pertaining to prohibited signs. Without diminishing or limiting in any way the declaration of severability set forth above in subsection (1), above, or elsewhere in this Section IX of the Zoning Ordinance, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section IX that pertains to prohibited signs, including specifically those signs and sign types prohibited and not allowed under Section 9.4, Prohibited Signs, of this Section IX. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Section 9.4 is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Section

9.4 thereby ensuring that as many prohibited sign types as may be constitutionally prohibited continue to be prohibited.

(4) Severability of prohibition on billboards. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section and/or any other Ordinance provisions and/or laws are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition on billboards as contained in this Section IX, or elsewhere in the Zoning Ordinance or the Code of Ordinances.

## SCHEDULE A

Pursuant to Section 9.12(3), entitled “Reduction of Non-Digital Billboards through Conversion to, or Replacement by, Digital Billboards,” it is recognized that the City has a goal to reduce in the number of billboards in the City. In addition to ordinary attrition and in addition to the destruction of billboards through Acts of God, lawful nonconforming non-digital billboards that currently exist within the City may be removed by other means. Specifically, such nonconforming non-digital billboards may be converted to nonconforming digital billboards based upon the trade ratio, the sunset provision, and the other conditions as set forth in this Schedule A.

Except as specifically set forth in this **Schedule A**, no vested rights shall accrue to any person or entity.

This **Schedule A** provides for a minimum trade ratio of 4:1, namely *at least* four (4) qualifying nonconforming non-digital billboard sign faces (each qualifying sign face must equal or exceed two hundred twenty-five square feet (225 sq. ft.) must be removed as a pre-condition for the vested right to place one and *no more than one (1) digital billboard sign face* into operation. The replacement digital billboard structure shall have no more than two (2) digital faces, with any one digital sign face not exceeding three hundred square feet (300 sq. ft.). The surrounding cabinet or border shall not exceed six inches in width. Each sign face, up to a maximum of two sign faces per billboard structure, qualifies as an existing sign face so that the removal of an existing billboard structure with two (2) or more sign faces qualifies as the removal of two existing sign faces. However, all sign faces shall be removed from an existing billboard structure and the structure and visible foundation demolished and removed in order for each removed sign face to qualify as an eliminated sign. Each digital changeable face qualifies as a replacement sign face under this schedule. However, each advertising face within a digital changeable face shall not count as an additional replacement sign face. Notwithstanding the foregoing, if an eliminated sign structure has more than two (2) sign faces, only two sign faces count as a qualifying replacement sign face. Each replacement billboard sign structure shall be located at the site of an eliminated sign which was demolished and removed. In other words, all replacement sign structures are restricted to the locations of qualifying signs eliminated under this Schedule A. Replacement signs shall not be relocated to new sites or locations. All replacement signs shall meet all requirements and regulations of the City of Opelika and all applicable laws and regulations of the State of Alabama. Absent compliance with the foregoing, no building permit shall issue. If any building permit is issued without complying with the foregoing, then the building permit is void ab initio.

This **Schedule A** provides for a sunset period of twenty-five (25) years for any new digital billboard structure (inclusive of any new digital sign faces), meaning that any new digital billboard structure and any new digital billboard faces that are so placed must be physically removed in their entirety immediately upon the passage of twenty-five (25) years following their placement into operation or following the erection of the new billboard structure, whichever comes first.

Any nonconforming non-digital billboard structure that is voluntarily removed as a result of the loss or termination of lease, or that is substantially destroyed by an Act of God, shall not be eligible to be counted as a “qualifying non-digital billboard structure.”

Any new digital billboard structure, inclusive of its digital billboard face(s), shall be and remain nonconforming under the City’s Zoning Ordinance during the twenty-five (25) year sunset. In the event that any such structure is destroyed by an Act of God or is removed due to a loss or termination of lease before the conclusion of the twenty-five year period, then the structure may not be rebuilt or re-established elsewhere; and, in any such event, the sunset period shall be deemed at an end even though twenty-five year period has not fully elapsed, and any and all vested rights that then existed shall be fully and completely extinguished.

Any new digital billboard structure and its digital billboard faces(s) that may be erected or placed in operation pursuant to this **Schedule A** shall be subjected to the following conditions as to placement [and operation]:

1. Digitally converted billboards (replacement billboards) shall be a minimum of two thousand five hundred (2,500) feet apart from any other digital billboard on the same road facing in the same direction of travel.
2. The new digital billboard structure shall be no higher than thirty (30) feet to the top of the sign structure or sign face from the ground level at the foot of the sign structure.
3. The new digital billboard structure shall only be located on one of the following roads, highways, or locations: I-85 or within one hundred (100) feet of I-85 and the Gateway Overlay Corridor Zoning District. However, no replacement billboard shall be located in the C-1 Zoning District or within the boundaries of any historic preservation district.
4. The new digital sign faces shall not exceed three hundred square feet (300 sf.).
5. The messages on any digital sign face shall not change more frequently than once every ten (10) seconds.
6. Any digital sign shall abide by the brightness and luminance standards as are established from time to time for all digital signs that utilize lighting to display messages.
7. No digitally converted billboard (replacement billboards) shall be placed within any street right-of-way and no closer to the street right-of-way than the existing billboard.
8. Electrical wiring shall run underground from the power source to serve the digitally converted billboard.
9. The City, through appropriate personnel, may exercise its police powers to protect public health, safety and welfare by requiring emergency information to be displayed on digitally converted billboards. Emergency information includes, but is not limited to AMBER alerts, dangerous criminal alerts, fugitives from justice alerts, weather alerts and emergency

management information. Upon notification, and at no cost to the City, the sign operator shall exclusively display the emergency alert for the period of one (1) hour. Thereafter, emergency alerts are to remain in rotation according to the designated issuing agencies protocols.

10. As part of the digital permitting process, the owner of a static billboard sign must identify in its application the following:

- (a) The location of the static billboard face to be replaced
- (b) The size of the static face to be replaced
- (c) The size of the digital billboard face being installed
- (d) The location of four (4) other billboard faces being removed

#### HISTORY OF AMENDMENTS TO SECTION IX

Date of Amendment: May 18, 2016	Ordinance No. 113-16 Amend entire Section IX
Date of Amendment: April 2, 2014	Ordinance No. 108-14 Add Commercial Advertising Electronic Message Boards
Date of Amendment: September 20, 2011	Ordinance No. 115-11 Amend entire Section IX
Date of Amendment: March 23, 2010	Ordinance No. 107-10 Section 9.5 – Exempt Signs Subsection L. Political Signs
Date of Amendment July 21, 2009	Ordinance No. 109-09 Section 9.9.1 Digital and Variable/Changeable Electronic LED Signs.
Date of Amendment: July 21, 2009	Ordinance No. 109-09 Section 9.4 – Prohibited and Illegal Signs
Date of Amendment January 8, 2002	Ordinance No. 102-02 Section 9.10 Billboard and Portable Signs
Date of Amendment: December 2, 1997	Ordinance No. 128-97 Sign Portable
Date of Amendment: December 2, 1997	Ordinance No. 128-97 Sign, Temporary Promotional Display
Date of Amendment: February 7, 1996	Ordinance No. 100-96 Section 9.5 – Exempt Signs – Permit Not...
Date of Amendment: February 7, 1996	Ordinance No. 100-96 Section 9.8– Residential Signs–Permit Required
Date of Amendment February 7, 1996	Ordinance No. 100-96 Section 9.10 Billboard and Portable Signs
Date of Amendment: February 7, 1996	Ordinance No. 100-96 Section 9.11 – Non Conformance of Existing Signs
Date of Amendment: December 6, 1995	Ordinance No. 136-95 Sign, Multiple Use Identification

## SECTION X

### LANDSCAPE REGULATIONS

#### SECTION 10.1 PURPOSE

The following landscape regulations are for the purpose of protecting and enhancing the ecological and esthetic environments of the City of Opelika and to implement the goals contained in the City's Comprehensive Plan. Proper landscaping benefits the City by reducing soil erosion and storm water runoff, glare from vehicles, wind, heat, noise, dust, and other offensive conditions. Furthermore, landscaping buffers and screens incompatible land uses, maintains and enhances the character of neighborhoods, serves to attract potential residents and developers to the City, and generally creates a safer, more attractive and more pleasant living and working environment for all residents of the City of Opelika.

#### SECTION 10.2 DEFINITIONS

The following words, terms and phrases, when used in the Section, shall have the meaning ascribed to them in this section, except when the context clearly requires otherwise:

- Caliper:** Diameter of a tree trunk. Caliper is used for trees less than 12" in diameter. For trees less than 4" in diameter it is measured 6 inches from the ground. For trees between 4" and 12" diameter it is measured 12" from the ground.
- City Horticulturist:** Refers to the City of Opelika Grounds keeping Superintendent or designated authority.
- D.B.H.:** Diameter at breast height. D.B.H. is used for trees with a diameter greater than 12" and is measured four (4) feet above the ground.
- Developed Area:** All land area disturbed for the purpose of developing structures, parking facilities, landscaped areas, etc.
- Developer:** The legal or beneficial owner of a lot or parcel or any land proposed for development and/or inclusion in a development, including the owner of an option, contract to purchase, or lease.
- Groundcover:** An evergreen or deciduous planting less than 24" in height, turf grass is excluded.

<b>Mono-culture:</b>	A single type and species of planting. This type of planting is prohibited by this code.
<b>Mulch:</b>	A natural planting material such as pine straw or tree bark used to control weed growth, reduce soil erosion and reduce water loss.
<b>Parking Lot Planting:</b>	A planting required due to the construction of non-covered parking. When less than 25 parking spaces are proposed, these plantings may be spaced around the perimeter of the parking lot. When more than 25 spaces are proposed, these plantings shall be placed within "parking lot islands" and/or "parallel planting peninsulas."
<b>Parking Lot Island:</b>	A planting island contained completely within the confines of a parking facility. These islands shall be elevated at least four (4) inches in height and bordered by concrete curbing. These are ideal places for required parking lot plantings (see Appendix).
<b>Parallel Planting Peninsula:</b>	A planting island that extends out into the parking area, and is bounded on at least one (1) side by the outer edge of the asphalt or building. These shall be elevated at least four (4) inches in height and bordered by concrete curbing. These are ideal places for required parking lot plantings (see Appendix).
<b>Recommended Tree:</b>	Any one (1) of the trees listed under "Section 10.9 Recommended Trees." These trees are well suited for the soils-and climate of Opelika, Alabama.
<b>Significant Tree:</b>	Any tree with a caliper of six (6) inches or greater.
<b>Shrub:</b>	An evergreen or deciduous planting no less than 24" in height, which will remain attractive and full throughout the year.

### **SECTION 10.3 APPLICABILITY**

All rules, regulations, conditions, and requirements set forth in this Section are applicable as follows:

- A.** Any new development or construction in a C-2, C-3, M-1, M-2, I-1, and PUD zoning district. Multi-family developments (buildings composed of three (3) or more dwelling units) in any zoning district which require review by City of Opelika staff are also subject to these regulations.
- B.** An alteration to an existing building(s), development(s), or construction which increases or decreases the amount of gross floor area of a structure or building on a lot by more than fifty (50) percent. The property, which undergoes such alteration, shall be required to come into compliance with all landscaping requirements in place at that time.
- C.** Nothing herein shall affect in any way the rights of, or exercise by, any public utility of its present and future acquired rights, to clear trees and other growth from lands used by the public utility. The utility shall cooperate and coordinate with the City Horticulturist when clearing or pruning of the rights-of-way.
- D.** Nothing herein shall reduce the lines of sight and traffic visibility standards adopted by the City in the Opelika Public Works Manual. Due consideration should be given to plantings within twenty (20) feet of an intersection along a roadway. In such cases certain height provisions of this code may be modified by the City Engineer.

### **SECTION 10.4 GENERAL INFORMATION**

#### **A. Trees Located Within the Right-of-Way.**

1. Trees located within a local right-of-way are property of the City of Opelika. The removal of significant trees within the right-of-way is prohibited without written permission of the City Horticulturist.
2. Any "significant tree" located within a public right-of-way and abutting the subject property shall be shown on the Landscape Plan. "Significant trees" within the right-of-way and abutting the subject property may-be applied toward existing tree credits with approval from the City Horticulturist.
3. Any "significant tree" located within a right-of-way that is damaged by a developer, such as because of construction, shall be immediately removed and replaced by the developer. The replacement shall be a similar planting with a caliper of at least 2.5".
4. All care of any "significant tree" within the right-of-way applied towards existing tree credits shall become the responsibility of the property owner. This includes limb pruning, tree removal, etc.

**B. Size and Quality Requirements.**

1. Any Large Tree planted to meet requirements of this Section shall have at least 2"-2.5" caliper. Any Medium Tree or Understory Tree planted to meet requirements of this Ordinance shall have a caliper between 1.25" and 1.5", except that multi-stemmed Understory Trees shall be between six (6) and eight (8) feet in height. In addition, deviations from the "Recommended Tree List" may be approved through a written request to the City Horticulturist. These plantings may or may not count towards the point total for the property.
2. Tree(s) shall be in a healthy condition at the time of planting.
3. Shrubs planted to meet requirements of this Ordinance shall be at least 24" in height.
4. Grass shall completely cover the soil after one (1) full growing season.
5. No bare ground shall be left exposed. Grass and other approved appropriate groundcover or mulch; such as pine straw or tree-bark, shall cover all non-paved and non-built "developed areas."
6. Irrigation is not required but is highly recommended. Proper irrigation greatly improves the chances for survival.
7. Any planting that dies shall be replaced.

**C. Basic Landscaping Requirements.**

1. Trees, plants, and shrubs shall be planted in sufficient quantities to obtain the required number of points for the parcel.
2. One (1) additional point is required for each parking space.
3. "Residential Buffers" and "Parking Lot Buffers" may be required.

**SECTION 10.5 LANDSCAPE PLANS****A. Landscape plans shall be submitted at the time of application for building permits with other construction plans.**

1. Landscape plans shall be submitted on a separate drawing sheet(s) of a standard size (preferably 24" x 36") and drawn to a standard scale (preferably engineer's scale).
2. Landscape plans shall show type, size and locations of existing trees to be preserved, in addition to type, size and locations of proposed trees, shrubs, and groundcover in relation to any existing or proposed structures, roads, property lines, etc.
3. Procedures for preserving existing trees during construction shall be submitted and followed accordingly.
4. Landscape plans shall show statistics indicating that all point requirements have been met using the format illustrated in Template 1.
5. Plants outside of the construction area need not be shown on the Landscape Plan.
6. Landscape Plans shall be drawn by an architect, landscape architect, engineer, or licensed landscaper.
7. Prior to issuance of a building permit, Landscape Plans shall be reviewed and approved by the City Horticulturist.

## SECTION 10.6 LANDSCAPE REQUIREMENTS

### A. Steps for Approval.

- Step 1 Determine the number of base points required via shade trees, shrubbery or a combination thereof; [see Section 10.6(B)]
- Step 2 Determine the number of Parking Lot Trees/Shrubs which must be planted. The quantity of plants required is based on the number of parking spaces proposed; [see Section 10.6(C)]
- Step 3 Determine whether Residential and/or Parking Lot Buffers apply to the development; [see Section 10.6(D)]
- Step 4 Develop a Landscape Plan with plantings in sufficient numbers to meet the point requirements and with any applicable buffer. [See Section 10.5(A)]

### B. Shade Planting Requirements/Point System.

Each developed area must equal or exceed a minimum number of "base points" in order to obtain approval. The number of points required depends on the size of the developed area (see Table 1). Different types of plantings are worth different points; Large Trees are worth eleven (11) points, Medium Trees are worth eight (8) points, Understory Trees are worth five (5) points, and Shrubs/groundcovers are worth one (1) point (see Table 2).

The developer may use any combination of plantings to obtain the necessary number of points. Different lots and landscapes will lend themselves to different types of plantings. This Ordinance attempts to encourage creativity and diversity in landscaping. In no cases, however, shall a mono-culture of plantings be allowed. A variation of plantings, at least three (3) different species, is required.

In order to obtain points, the plantings must be placed on the developing property and not on a public right-of-way.

#### Number of Points Required for the Site

Table 1

Square Footage of the Developed Area*	Number of Points Required
0-10,000	40 (+1 per parking space)
10,001-20,000	60 (+1 per parking space)
20,001-30,000	80 (+1 per parking space)
30,001-40,000	100 (+1 per parking space)
40,001-50,000	120 (+1 per parking space)
50,001-60,000	140 (+1 per parking space)

\* When only small portions of large lots are developed, (e.g. only one (1) acre of a ten acre lot) only the immediate construction area shall be considered when determining the number of points required. Contact the Planning Department to determine the immediate construction area.

Alternative formula for determining number of points required for sites greater than 60,000 square feet:

$$\text{Base points} = [(X - 10,000)/500] + 40 \quad \{X = \text{Construction Area}\}$$

$$\text{Parking lot points} = 1 \text{ per parking space}$$

### Point Values for Various Plantings

Table 2

Type of Plant Material	Minimum Size	Point Value
Large Tree*	2.0" - 2.5" Caliper	11
Medium Tree*.	1.25" - 1.5" Caliper	8
Understory Tree*	(Single Trunk) 1.25" - 1.5" Caliper (Multiple Trunk) 6' - 8' Height	5
Shrub or Groundcover	Shrub - 24" 1 Groundcover 1 gallon minimum	1

- See Section 10.9 Recommended Tree List

### C. Parking Lot Requirements.

All non-covered, street-level parking facilities established and governed by this Section shall be landscaped in accordance with the following requirements:

1. In addition to the number of "base points" required with shade plantings, one (1) additional, point is added to the site for each parking space proposed. These points must be used to plant "Parking Lot Trees and/or Parking Lot Shrubs." (E.g. a 26,000 square foot lot requires 80 base points; however, it also has 15 parking spaces. The additional 15 points brings the lot up to 95 points, with 15 of those points designated as Parking Lot Trees and/or shrubs.)
2. On parking lots with less than twenty-five (25) parking spaces, "Parking Lot Trees/Shrubs" may be spaced around the lot as desired to provide a uniform and attractive design.
3. On lots with more than twenty-five (25) parking spaces, "Parking Lot Trees/Shrubs" shall be planted on "parking lot island(s)" and/or "parallel planting peninsulas" within the confines of the established parking lot. These plantings will minimize and break the expanse of asphalt and concrete. Acceptable islands and parallel planting peninsulas are displayed in Figures 1 and 2 in the Appendix.
4. Each "parking lot island" or "parallel planting peninsula" shall have at least one (1) tree.

## **D. Buffers and Buffer Zones.**

In addition to the required number of points above, a parcel may be required to buffer certain portions of the property.

Trees from the "Recommended Tree List" planted to meet either Residential or Parking Lot buffer requirements, may be applied toward the point requirements. Shrubs may not be applied toward the point requirements. This provision allows credit for plantings in the buffer area(s); however, it prevents a property from planting only in those areas.

In cases where a parking area abuts a residential zone, then the more stringent "Residential Zone Buffer" requirements supersede the parking lot buffer.

### **1. Residential Zone Buffer (see diagrams).**

On any commercial, industrial, institutional, PUD or multi-family development, except duplexes, adjacent to or abutting a residential zoning district, a buffer strip along the property line(s) of the developing property is required.

The buffer shall run the entire length of the abutting lot line(s). The type of buffer may consist of any or all of the following: (see Residential Buffer Options in the Appendix)

- a. An opaque fence not less than six (6) feet in height, with horizontal or vertical openings not greater than three (3) inches per one (1) linear foot AND a four (4) foot wide strip of Evergreen plantings, which will grow to at least six (6) feet in height within three full growing seasons planted on the inside of the fence or;
- b. A staggered double row of Evergreen plantings at least six (6) feet in width, which will grow to at least six (6) feet in height and spaced in a manner which after three (3) years will provide an impervious visual barrier or;
- c. Natural, undisturbed forest at least twenty (20) feet in width that provides a nearly impervious visual barrier due to the dense nature of the plants and/or trees. If this option is chosen, the City Horticulturist shall determine whether the barrier is satisfactory through a site inspection prior to plan approval. Barriers shall be erected during construction to ensure the area is protected from damage due to construction.

### **2. Parking Lot Buffer:** Asphalt closer than ten (10) feet to any property line shall be buffered with one of the following types of buffers:

- a. A planting strip of no less than four (4) feet in width shall be provided between said property line and the off-street parking facilities (asphalt). A planting screen or hedge, of developers choice, and between two (2) and four (4) feet in height shall be provided and maintained on a continuing basis, except that such screen or hedge shall not obstruct or obscure sight lines, restrict vehicular movement, or block pedestrian walkways or sidewalks and/or,
- b. A six (6) foot wide single row of understory, medium, or large trees located between said property line and the off-street parking facilities (asphalt). The trees shall be spaced in a ratio of one (1) understory tree every fifteen (15) feet, or one (1) medium tree every thirty (30) feet, or one (1) large tree every forty-five (45) feet. Shrubbery shall be provided between the plantings.

The shrubs/trees shall be maintained on a continuing basis, except that such plantings shall not obstruct or obscure sight lines, restrict vehicular movement, or block pedestrian walkways or sidewalks. The trees may be applied toward the base point requirement; however, the shrubs may not be applied.

## **SECTION 10.7 EXISTING TREE CREDITS**

In order to encourage the preservation of Opelika's older trees, certain requirements relating to the number and density of new trees may be waived in the event existing trees are preserved.

- A.** For each existing "Significant Tree" with a D.B.H. between six (6) inches and ten (10) inches, fifteen (15) fewer points are required. For each existing "Significant Tree" between 11" and twenty-four (24) inches, twenty (20) fewer points are required. For each existing "Significant Tree" with a D.B.H. over twenty-four (24) inches, twenty-five (25) fewer points are required. However, precautions must be taken during construction to prevent damage to the existing tree(s), and any tree that dies during or because of construction must be replaced with a similar species or species approved by the City Horticulturist to equal lost tree points. (e.g. An Oak with a D.B.H. of twenty-five (25) inches is claimed as an existing tree, but subsequently dies. The developer must replace the tree with tree plantings which exceed 25 points).
- B.** Trees for which an owner/developer wishes to receive credit must be in the developed area and cannot be in undeveloped portions of the parcel. This stipulation prevents a developer with a large tract of land from claiming credit on portions left undeveloped and thus eliminating landscaping on the developed portion of the parcel.

## **SECTION 10.8 MAINTENANCE**

The owner is responsible for all maintenance and upkeep of planted trees in perpetuity within his/her development. After all plantings are finalized, the developer will schedule an inspection of the plantings with the City Horticulturist and landscape installer. If all plantings appear to be in good condition, the City Horticulturist will issue a Certificate of Completion to the developer and building official.

If plantings are subsequently damaged, in poor condition, diseased or dead, the City Horticulturist may require the property owner to replace the plantings and bring the lot back into compliance. Failure to bring the lot into compliance could lead to the City withholding a City of Opelika Business License.

## SECTION 10.9 RECOMMENDED TREES

The following is a list of recommended trees. Generally, these trees are suitable for Opelika's environment. Developers may deviate from this list with written approval from the City Horticulturist. The City Horticulturist shall determine the point values for plantings not listed.

Understory or Ornamental (25' tall or less), 1.25" - 1.5" caliper, 5 points

- |                       |  |
|-----------------------|--|
| 1. Eastern Redbud     | <i>Cercis canadensis</i>   |
| 2. Flowering Dogwood  | <i>Cornus florida</i>  |
| 3. Crape Myrtle       | <i>Lagerstroemia indica faureii</i><br><i>hybrids var. Natchez, Muskogee</i> |
| 4. Saucer Magnolia    | <i>Magnolia soulangiana</i>  |
| 5. Southern Waxmyrtle | <i>Myrica cerifera</i>   |

Medium Shade Tree (25'-45' tall), 1.25" - 1.5" caliper, 8 points

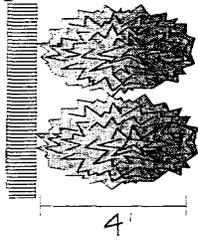
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| 1. Red Maple         | <i>Acer rubrum</i>         |
| 2. River Birch       | <i>Betula nigra</i>        |
| 3. Ginkgo Tree       | <i>Ginkgo biloba</i>       |
| 4. Southern Magnolia | <i>Magnolia grandiora</i>  |
| 5. Sweetbay Magnolia | <i>Magnolia virginiana</i> |
| 6. Ironwood          | <i>Ostrya virginiana</i>   |
| 7. Sourwood          | <i>Oxydendrum aboreum</i>  |
| 8. Chinese Pistache  | <i>Pistacia chinensis</i>  |
| 9. Scarlet Oak       | <i>Quercus coccinea</i>    |
| 10. Shumard Oak      | <i>Quercus shumardii</i>   |

Large Canopy Trees (45' tall or greater), 2.0" - 2.5" caliper, 11 points

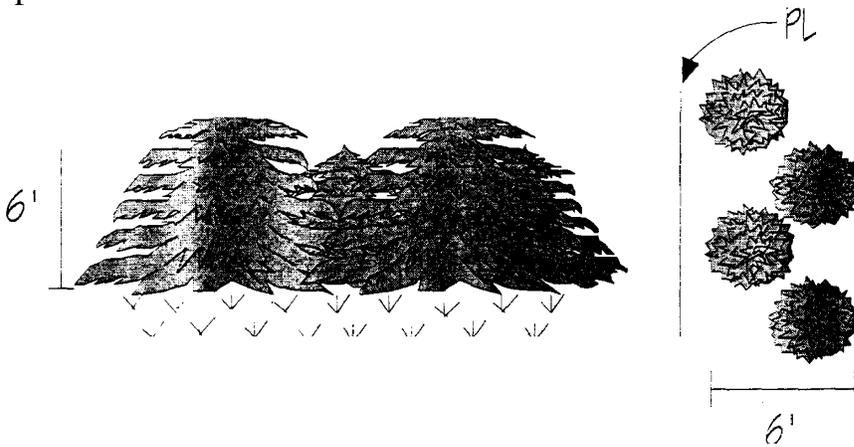
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|---------------------|---|
| 1. Green Ash        | <i>Fraxinum pennsylvanic</i>                                    |
| 2. Tulip Poplar     | <i>Liriodendron americana</i>                                   |
| 3. White Oak        | <i>Quercus alba</i>   |
| 4. Overcup Oak      | <i>Quercus lyrata</i>   |
| 5. Willow Oak       | <i>Quercus phellos</i>  |
| 6. Japanese Zelkova | <i>Zeldova serrata</i><br><i>var. green vase, village green</i> |
| 7. Baldcypress      | <i>Taxodium distichum</i>                                       |
| 8. Chinese Elm      | <i>Ulmus parvifolia</i><br><i>var. drake, athena</i>            |

### *Residential Buffer Options*

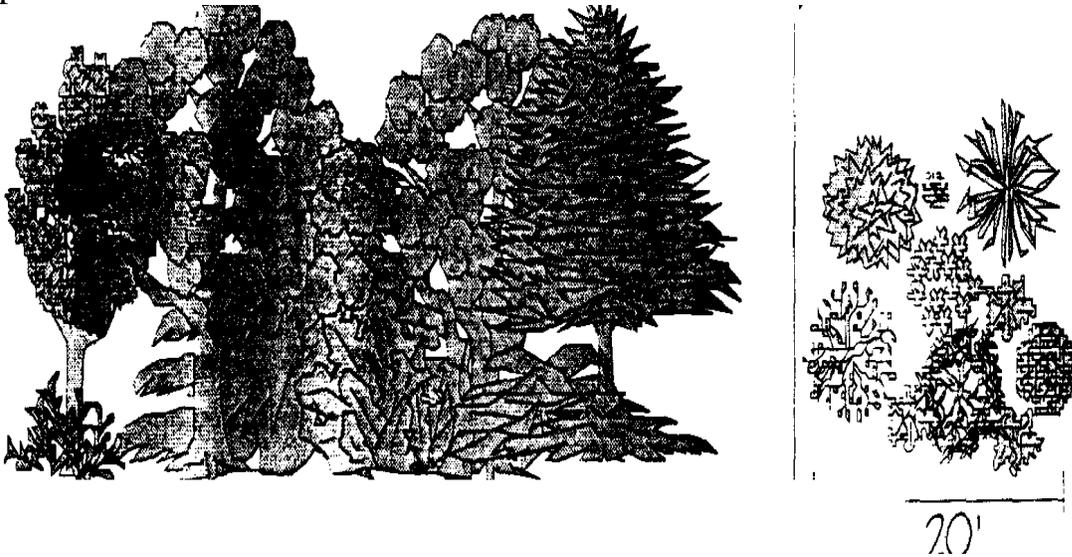
Option 1 – Buffer and Hedge



Option 2 – Double Row of Trees



Option 3 – Undisturbed Forest





## **SECTION XI**

### **LEGAL STATUS PROVISIONS**

#### **SECTION 11.1 INTERPRETATION AND PURPOSES**

In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements adopted for the promotion of the public health, safety, morals, convenience, order, prosperity and general welfare of the community. Where other ordinances or regulations, which may be adopted hereafter, impose greater restrictions than those specified herein, compliance with such other ordinances or regulations is mandatory. This ordinance shall not lower the restriction of plats, deeds or private contracts if such, are greater than the provisions of this ordinance.

#### **SECTION 11.2 SAVING CLAUSE**

If any section, clause, provision or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not in and of itself invalid or constitutional.

#### **SECTION 11.3 REPEAL OF EXISTING ORDINANCES**

All ordinances, including any zoning ordinance previously adopted, in conflict with this ordinance are hereby repealed.

#### **SECTION 11.4 EFFECTIVE DATE**

This ordinance shall become effective upon its adoption, approval and publication as required by law.