

*The City Of*

**Opelika**

*Alabama*

# **ZONING ORDINANCE**

**OPELIKA, ALABAMA**

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

**SEPTEMBER 17, 1991**

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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, *07* 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 (4', 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.

**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 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).

**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.

**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.

**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.

**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.

**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 a-n 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 thereof 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>1</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.

**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

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<sup>1</sup> Date Amendment: July 15, 2003 Ordinance No. 113-03

materials stored outdoors. In the case of truck terminals, exterior storage includes all trucks, truck beds, and truck trailers stored outdoors.

**Family.** One or more persons related by blood, marriage, or legal adoption, or not more than 6 unrelated persons occupying a dwelling unit and living as a single housekeeping unit and doing their cooking on the premises.<sup>2</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 to three 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.

**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

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<sup>2</sup> Date of Amendment: August 6, 2002      Ordinance No. 122-02

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 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>3</sup>

**Group Development.** Two or more uses occupying the same parcel or where two 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>4</sup>

**Group Home.** 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 70 square feet of

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

Date of Amendment: December 6, 1997 Ordinance No. 136-95

<sup>4</sup> Date of Amendment: December 6, 1995 Ordinance No. 136-95

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 - 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 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>5</sup>

**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).

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<sup>5</sup> Date of Amendment: August 6, 2002      Ordinance No. 122-02

**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>6</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 beverage as defined herein, except malt or brewed beverages as defined herein.

**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.

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<sup>6</sup> Date of Amendment: July 15, 2003

Ordinance No. 113-03

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

**Lot, Corner.** A lot abutting two 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 premise along each legally accessible public right-of-way it borders.

**Lot Line.** A line bounding a lot that divides one 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 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.

**Maintain.** To permit a sign, sign structure, or any part of each to continue, or to repair or refurbish a sign, sign structure, or any part of each.

**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 (0.5) percent or more alcohol by volume and not in excess of four (4) percent alcohol by weight or five (5) percent alcohol by volume, by whatever name same may be called.

**Mausoleum.** A structure for the entombment of the dead.

**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).

**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 storage of a customer's goods or wares and where no sales, service or repair facilities are permitted.

**Mobile Home or Manufactured Home (Trailer).** A transportable, single-family dwelling, intended for permanent occupancy contained in one unit, or in two or more units designed to be joined into one 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.

**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 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.

**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.

**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.

**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:

A dining space of at least one thousand (1,000) square feet on one floor in one 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 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-day period, the gross receipts from the serving of meals and food shall constitute more than fifty (50) percent 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 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.

**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.

**Sign.** Any display, name, identification, description, illustration, device, building, or building treatment having one or more faces that is visible from any public place or is located on private property and exposed to public view and which directs attention to a product, place, activity, person, service, institution, profession, business or solicitation.

**Sign, Agricultural.** A sign identifying and advertising agricultural products produced on the premises.

**Sign, Billboard.** A sign advertising a product, service, profession or business, the subject of which or whom is not present on the property that includes the location of such a sign.

**Sign, Bulletin Board.** Bulletin boards for community, charitable or religious organizations that are not illuminated.

**Sign, Canopy.** A sign affixed to a canopy, awning, eave, cantilever story or extended roof of a building, which identifies business conducted in said building.

**Sign, Construction.** A sign pertaining to the construction, alteration, rehabilitation or remodeling of real estate, in progress or intended.

**Sign, Directional.** A sign designed and erected solely for the purpose of traffic or pedestrian direction and placed on the property to which or on which the public is directed. This definition includes, but is not limited to entrance and exit signs to a parking lot or area and signs stating the regulations for use of a parking lot.

**Sign, Directory.** A wall mounted sign listing the businesses or activities conducted within a building or group of buildings, or in the case of a multi-family residential development, the names of tenants or occupants thereof.

**Sign, Display Area.** The maximum area of a sign or advertising device that may be seen from one location on a roadway, 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, 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, Flashing.** 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.

**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.

**Sign, General Business.** A sign pertaining only to the use of the premises on which the sign is located and displaying information, which may include the name, symbol or logo of the owner, occupant, management, business or the building; an address; the type of business or profession, service or activity conducted on the premises; and descriptive information about the products and services offered.

**Sign, Gross Area.** The gross display area of a sign plus trim, frame and apron, but not including structural supports.

**Sign, Ground.** A general business sign that is a freestanding sign or a wall with a sign permanently attached to it or a decorative wall that incorporates a sign.

**Sign, Hazard.** A sign warning of construction, excavation, or similar hazards so long as the hazard exists.

**Sign, Height.** The vertical distance measured from lowest grade level directly beneath the sign to the highest point of the sign.

**Sign, Incidental, Business.** A permanent information sign, located in other than residential zoning districts, which pertains to a particular service or commodity offered or a facility available on the premises on which the sign is located, which may include

address, hours and days of operation, whether a business is open or closed, credit card information, operating instructions for self-service equipment, emergency address and telephone numbers and similar information.

**Sign, Incidental, Residential.** A permanent information sign, located in a residential zoning district, which may include the name, address, hours of operation, activities and services conducted in permitted community and religious uses and in non-conforming uses or structures.

**Sign, Information Kiosk.** A freestanding structure providing information to pedestrians, including permanent copy and temporary copy and information such as handbills, posters and flyers affixed to a bulletin board-type surface.

**Sign, Internal.** A sign not intended to be viewed from public streets and located to be not visible from public streets or adjacent properties, such as a sign in the interior area of a shopping center, commercial building or structure, ball park, stadium and similar uses of a recreational or entertainment nature.

**Sign, Multiple Use Identification.** A sign stating the name of the group development that may also list the major tenants.<sup>7</sup>

**Sign, Nameplate.** A non-electrical sign identifying on the name and occupation or profession of the occupant of the premises on which the sign is located.

**Sign, Obsolete.** A sign that no longer correctly directs or exhorts any person, advertises a bona-fide business, leaser, owner, product or activity conducted, or product available on the premises where such sign is displayed.

**Sign, Off Premises.** A sign that advertises an activity conducted at a location other than on the lot or parcel of land on which the sign is located.

**Sign, Permanent.** Permanent signs shall be attached to a pole or foundation made of wood, metal, fiberglass or concrete with screws, bolts or hangers but not by tie-down straps such as is used to anchor mobile homes or temporary signs.

**Sign, Official.** Official federal, state or local government traffic, directional and informational signs and notices issued by any court, person or officer in performance of a public duty.

**Sign, On Premises.** A sign that advertises an activity conducted on the lot or parcel of land on which the sign is located.

**Sign, Painted Graphics.** Any mosaic, mural, painting, graphic art technique, or combination thereof, placed on a wall and containing no copy, advertising symbols,

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<sup>7</sup> Date of Amendment: December 6, 1995 Ordinance No. 136-95

lettering, trademarks or other references to the premises or to the products and/or service offered for sale on the premises.

**Sign, Political.** Temporary signs promoting the campaign of an individual for public office or advertisement of an approaching referendum on a public issue.

**Sign, Portable.** Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including but, not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.<sup>8</sup>

**Sign, Prohibition.** "No Trespassing", "No Parking" and similar warning signs.

**Sign, Projecting.** A general business sign located above the ground, permanently affixed to the exterior wall of a building or other structure, extending beyond said building, or other structure more than twelve (12) inches and located not less than eight (8) feet above the ground or finished surface of a sidewalk, street, driveway, or alley beneath it.

**Sign, Public Service Message.** An electronic or electrically controlled sign that conveys only information such as time, date, temperature, atmospheric conditions, or general, noncommercial news information through alternating copy without giving the appearance of directional movement.

**Sign, Reader Board.** A freestanding, projecting, wall, roof, or ground sign form of general business sign in the form of a structure or framework on which notices are posted in the form of removable letters or posters pertinent to the business on the premises.

**Sign, Real Estate.** A temporary sign pertaining to the sale, lease, or rental of real estate.

**Sign, Roof.** A sign erected on or above a roof, parapet, or roof eave and installed in a manner such that no portion of the sign extends beyond the limits of the exterior surface of the walls of the building upon which it is placed, or exceeds the height limitations for the zoning district in which it is located, regardless of the height of the building upon which it is placed.

**Sign, 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.

**Sign, Temporary.** A sign or advertising display designed to be displayed for a short period of time (thirty consecutive days, maximum). Included in this category are

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<sup>8</sup> Date of Amendment: December 2, 1997 Ordinance No. 128-97

retailers' signs temporarily displayed for the purpose of informing the public of a sale or "special" offer.<sup>9</sup>

**Sign, Temporary Promotional Display.** A temporary sign displayed so as to attract attention to the sale of merchandise or services, or a change in policy or in the status of a business, to include the display of banners, pennants, and decorative materials.

**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, 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.

**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:

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<sup>9</sup> Date of Amendment: December 2, 1997 Ordinance No. 128-97

**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 feet in height.

*There are two 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>10</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>11</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 320 sq. ft.<sup>12</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.

**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

<sup>10</sup>Date of Amendment: December 2, 1997      Ordinance No. 128-97

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

<sup>12</sup>Date of Amendment: September 1, 1992      Ordinance No.

equipment for trucks and vehicles. A truck stop also may include overnight accommodations and restaurant facilities primarily for the use of truck crews.<sup>13</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 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.

**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 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 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.

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<sup>13</sup>Date of Amendment: June 19, 2007

Ordinance No. 108-07

**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.

**Zero Lot Line.** The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a side lot line.<sup>14</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>14</sup>Date of Amendment: June 19, 2007

Ordinance No. 108-07

## **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 down 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 Zoning Administrator 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 Zoning Administrator of the municipality that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Zoning Administrator 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 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 fifteen (15) 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

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<sup>1</sup>Date of Amendment: August 20, 1996      Ordinance No. 121-96

be erected not less than seven (7) days before the Public Hearing and shall be removed within five (5) days after the Hearing,

## **SECTION 5.2 SUBMITTAL OF PLANS**

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

- A. A drawing to scale of the property to be rezoned, and when required, with the location of a-11 existing and proposed structures.
- B. Map with name and address of all adjacent property owners, as shown on current tax map.
- C. Location map showing properties proximity to other uses.
- D. Legal description of property to be rezoned.

## 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 <sup>2</sup>
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 <sup>3</sup>
Planned Unit Development District	PUD
Retail/Entertainment District	R/E

#### 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

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:

- A. Boundaries shown as following or approximately following the limits of any municipal corporation shall be construed as following such limits.

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

<sup>2</sup> Date of Amendment: November 7, 2007    Ordinance No. 118-07

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

- 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 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>4</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 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.

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<sup>4</sup>Date of Amendment: November 7, 2007 Ordinance No. 118-07

**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, FP, GC-1, GC-2, PRD<sup>5</sup>, PUD<sup>6</sup>, R/E<sup>7</sup> Special Districts.** Districts such as the Airport District, Flood Plain Overlay District, and Gateway Corridor Overlay District are 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>8</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 or more residential types and limited commercial uses incidental to the residential development.<sup>9</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:
  - i. 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

<sup>5</sup> Date of Amendment: November 7, 2007 Ordinance No. 118-07

<sup>6</sup> Date of Amendment: November 7, 2007 Ordinance No. 118-07

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

<sup>8</sup> Date of Amendment: December 6, 1995 Ordinance No. 138-95

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

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;

- ii. 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;
  - iii. 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:

- i. Any use with an obnoxious odor;
- ii. Any noxious, toxic, caustic, or corrosive fuel or gas related use; provided however this shall not prevent the operation of a gasoline service station;
- iii. Any dust, dirt, or fly ash in excessive quantities;

- iv. Any unusual fire, explosion or other damaging or dangerous hazard, except that this shall not prevent the storage, display, sale or use of fireworks;
- v. 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;
- vi. 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;
- vii. 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);
- viii. Any drilling for, in or removal of subsurface substances;
- ix. 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);
- x. Funeral establishments or mortuaries;
- xi. Any unsightly or unscreened garbage or trash receptacle or accumulations of garbage or trash;
- xii. Residential Density is limited to a maximum of twenty-five (25) dwelling units per acre.<sup>10</sup>

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<sup>10</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**

There shall be permitted in all districts the following uses:

- A. Public Utilities (but not including power and gas substations and pumping stations).
- B. Public Buildings of a governmental nature, including libraries.
- C. Accessory Structures
- D. Home Occupations

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

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:

- A. Public Utilities, not otherwise specified, including power and gas substations and pumping stations.
- B. General Hospitals for Humans, (including nursing homes.)
- C. Semi-public buildings and uses, including private schools and churches.
- D. Public School Buildings and Associated Uses
- E. Public Recreational Facilities, including parks, playgrounds, stadiums, etc.
- F. 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 <sup>1</sup>	DISTRICTS														
	R-1	R-1A	R-2	R-3	R-4	R-5	R-5M	C-1	C-2	C-3	M-1	M-2	I-1	GC-1 <sup>5-10</sup>	GC-2 <sup>5-10</sup>
Minimum Lot Size (vs.) 10,000	43,560	30,000	15,000	7,500	7,500	7,500	7,500							20,000	
Dwelling Units Per Acre <sup>2,3</sup>	1	1.25	4	4	9	16	16	16 <sup>4</sup>	16	16					
Minimum Lot Width (ft.)	100	100	100	60	60	60	60	60	60	60	60	60	60	150	100
Front Yard Setback (ft.)	50	40	35	25	25	25	25	None	30	30	40	40	20	40 <sup>7</sup>	40 <sup>7</sup>
Rear Yard Setback (ft.)	50	35	30	25	20	20	20	None	30	20	30	30	30	20 <sup>7</sup>	20 <sup>7</sup>
Side Yard Setback (ft.)	25	15	12	10	10	10	10	None	10	10	30	30	30	20 <sup>7</sup>	20 <sup>7</sup>
Maximum Building Area (%)	25	25	25	40	40	60	60	100	40	50	50	50	50		
Max. Impervious Surface Area (%)														70	75
Max. Building Height (ft.)	35	35	35	35	45	45	45	75	75	75	75	75	75	75	75
Maximum Height of Signs	35	35	35	35	45	45	45	75	75	75	75	75	75	30	30

#### NOTES:

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> Densities may be increased by the Planning Commission through conditional use review by a maximum of 25%.

<sup>4</sup> 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.

(1-4 Conditional use review before the Planning Commission is required for new single-family home construction in the C-1,C-2,C-3, or I-1 districts.)

<sup>5</sup> GC-1 and GC-2 Overlay districts, 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 a 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.

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<sup>6</sup> GC-1 and GC-2 Overlay districts, General Sign Requirements: Billboards, portable signs, and off-premise signs (including portable sign faces mounted on permanent structures) are prohibited. Wall signs shall not extend above the top of the building wall. Two or more signs are allowed to be erected on one sign pole or freestanding support structure; however, the signs must be joined together and securely fastened by bolts or other fasteners whereby the signs appear as on sign. In this type of freestanding sign, spacing or open gaps between signs are prohibited. Reader boards attached to freestanding signs shall be no larger than 50% of the principal sign.

<sup>(6a)</sup> GC-1 and GC-2 districts, signs for single lot general businesses: The maximum total display area for all general business signs on any single lot with 30,000 square feet or less of floor area shall not exceed 200 square feet. Commercial uses with over 30,000 square feet of floor area, maximum total signage is calculated at 1.6 square feet of sign area for each lineal foot of business frontage, not to exceed 320 square feet. No one freestanding sign shall exceed 100 square feet per sign face. No one freestanding sign all exceed a height of 30 feet.

<sup>(6b)</sup> GC-1 and GC-2 districts, signs for group developments (see definition, Section 2.2): A group development is permitted no more than one freestanding sign per street frontage. No one freestanding sign shall exceed 140 square feet of sign face. It is recommended that a multiple use identification sign be used (see definition, Section 2.2). The maximum total display for all general business signs for each tenant is calculated at 1.6 square feet of sign area for each lineal foot of business frontage, not to exceed 100 square feet. A freestanding sign for a tenant of a group development is prohibited.

<sup>(6c)</sup> Convenience stores selling gasoline or gasoline service stations, in addition to other permitted signs: A total of 100 square feet of copy area is permitted on the canopy and spandrels of a gasoline-convenience station with 6 or less pumps or multiple square feet of copy, area is allowed. Copy area shall be limited to the brand name and logo of the oil company. The signs shall be constructed as an integral part of the canopy and spandrel structures and shall not extend above the roofline of the canopy. Each car wash may have one building wall sign not to exceed 24 square feet of copy area identifying the car wash. An information-instruction sign not to exceed 15 square feet is permitted on the wall adjacent to the entrance to the car wash.

<sup>(6d)</sup> Single building housing multiple profit center/franchises/ subtenants as secondary businesses having a shared entrance: No one freestanding sign shall exceed 140 square feet of sign face. The maximum total area for each secondary business wall sign is 16 square feet. The maximum total area for all general business signs shall not exceed 200 square feet. This type of commercial use is allowed no more than one freestanding sign per street frontage.

<sup>(6e)</sup> Nonconforming Signs: It is prohibited to install any new sign(s) on a lot where a nonconforming sign exists unless the lot conforms to the provisions of this ordinance. A nonconforming sign shall be removed if there is a change in the primary use of the property or more than 50% reconstruction or additions is performed on the property.

<sup>7</sup> GC-1 and GC-2 Overlay districts, 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.

<sup>8</sup> GC-1 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 feet 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 a 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 the City Horticulturist. If these Gateway Corridor requirements and Landscape coincide or overlap, the most restrictive regulation shall take precedence.

<sup>9</sup> GC-1 and GC-2 Overlay districts: 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

<sup>10</sup> For new construction in the GC-1 and GC-2 Overlay Districts: 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 right-of-ways. 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-1A	R-1	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-1	GC-2
<b>RESIDENTIAL</b>																
Single-Family <sup>1</sup>	A	A	A	A	A	A	A	A	C	A	A	N	N	A	A	A
Duplex	N	N	N	C	A	A	A	A	N	N	N	N	N	N	C	C
Apartments	N	N	N	N	C	C	C	C	C	C	C	C	N	C	C	C
Townhouse	N	N	N	N	C	C	C	C	C	C	C	N	N	N	C	C
Patio Houses	N	N	N	N	C	C	C	C	N	C	C	N	N	N	C	C
Mobile Home	N	N	N	N	N	A	N	A	N	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	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	C
Group Homes	C	C	C	C	C	C	C	C	N	C	C	N	N	A	C	C
Domiciliary	C	C	C	C	A	A	A	A	N	C	C	N	N	C	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	C
Tourists Home, Bed & Breakfast Inn	N	N	N	N	N	N	N	N	A	A	A	N	N	A	C	C
Hotel, Motels, and Similar Business	N	N	N	N	N	N	N	N	A	A	A	N	N	A	C	C
Recreational Vehicle Park	C	C	N	N	N	C	N	C	C	N	N	N	N	N	C	C
Temporary Emergency, Construction and Repair Residences	A	A	A	A	A	A	A	A	A	A	A	A	A	A	C	C
<b>COMMERCIAL</b>																
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	A
more than 100,000 Square Feet GLA	N	N	N	N	N	N	N	N	C	C	C	C	N	N	C	C
Storage and Display of Goods Outside																
Fully Enclosed Building Allowed																
Automobile Sales	N	N	N	N	N	N	N	N	N	N	C	C	N	N	N	C
Mobile Home Sales	N	N	N	N	N	N	N	N	N	N	C	C	N	N	N	N
Truck and Tractor Sales	N	N	N	N	N	N	N	N	N	N	C	C	N	N	N	C
Truck Stop	N	N	N	N	N	N	N	N	N	N	C	C	N	N	N	N

USES	DISTRICTS															
	R-1A	R-1	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-1	GC-2
Square Feet GLA All Other More Than 100,000	N	N	N	N	N	N	N	N	C	C	C	C	N	N	C	C
Square Feet GLA Adult Businesses	N	N	N	N	N	N	N	N	C	C	C	C	N	N	C	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 and Stock Brokers, Government Building, etc.	N	N	N	N	N	N	N	N	A	A	A	C	N	N	A	A
Offices of Physicians or Dentist	N	N	N	N	N	N	N	N	A	A	A	C	N	A	A	A
Banks	N	N	N	N	N	N	N	N	A	A	A	A	N	N	A	A
Banks with Drive-in Windows	N	N	N	N	N	N	N	N	N	A	A	A	N	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	C
Without Equipment and Material Yard	N	N	N	N	N	N	N	N	A	A	A	A	A	N	C	C
<b>Automobile Related<sup>2</sup></b>																
Automobile Maintenance Establishment	N	N	N	N	N	N	N	N	N	C	C	A	A	N	C	C
Automobile Repair	N	N	N	N	N	N	N	N	N	N	C	A	A	N	N	C
Automobile Service Station	N	N	N	N	N	N	N	N	N	C	C	A	N	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	C
<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	C
Operations Conducted Within or Outside Fully Enclosed Building	N	N	N	N	N	N	N	N	N	N	C	A	A	N	C	C
Social, Fraternal clubs and Lodges and Union Halls, and Similar Uses <sup>2</sup>	C	C	N	N	C	C	C	C	A	A	A	N	N	C	C	C

USES	DISTRICTS															
	R-1A	R-1	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-1	GC-2
Bowling Alleys and Skating Rinks	N	N	N	N	N	N	N	N	A	A	A	A	N	N	C	C
Indoor Fitness Center	N	N	N	N	N	N	N	N	A	A	A	A	N	N	C	C
Indoor/Outdoor Fitness Center	N	N	N	N	N	N	N	N	N	A	A	A	N	N	C	C
Billiard and Pool Halls	N	N	N	N	N	N	N	N	A	A	A	A	N	N	C	C
Movie Theater	N	N	N	N	N	N	N	N	A	A	A	A	N	N	C	C
<b>Activity Conducted Primarily Outside</b>																
<b>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	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	N	C
Horse Back Riding Stables	A	A	N	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	N
<b>Day Care Center</b>	N	N	N	N	C	C	C	C	C	A	A	A	N	A	C	C
<b>Restaurants, Bars, Night Clubs</b>																
No Substantial Carry Out or Delivery Service, No Drive-In Service, No Service or Consumption Outside Fully Enclosed Structure	N	N	N	N	N	N	N	N	A	A	A	A	A	A	C	C
No Substantial Carry Out or Delivery Service, No Drive-in Service, Consumption Outside Fully Enclosed Structure	N	N	N	N	N	N	N	N	A	A	A	A	A	A	C	C
Carry Out and Delivery Service Consumption Outside Fully Enclosed Structure Allowed	N	N	N	N	N	N	N	N	C	A	A	A	A	N	C	C
Carry Out and Delivery Service, Drive in Service, Service or Consumption Outside Fully Enclosed Structure Allowed	N	N	N	N	N	N	N	N	N	A	A	A	A	N	C	C
Carry Out and Delivery Service Only	N	N	N	N	N	N	N	N	N	C	A	A	N	N	N	C

USES	DISTRICTS															
	R-1A	R-1	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-1	GC-2
<b>Car Wash</b>																
Self-Service, unattended, open bay	N	N	N	N	N	N	N	N	N	C	A	A	N	N	N	C
<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	N	C
Storage inside or outside completely enclosed structure	N	N	N	N	N	N	N	N	N	N	C	A	A	N	N	C
Mini warehouse <sup>2</sup>	N	N	N	N	N	N	N	N	N	C	C	A	A	N	N	N
Scrap Materials, Salvage Yard, Junkyard, Automobile Graveyard	N	N	N	N	N	N	N	N	N	N	C	C	C	N	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	C
Kennel	C	C	N	N	N	N	N	N	N	N	N	C	N	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	N	N
excluding Livestock	A	A	N	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	N	N
<b>Miscellaneous Public and Semi-Public Facilities</b>																
Post Office	N	N	N	N	N	N	N	N	C	C	A	A	N	N	C	C
Airport	C	C	N	N	N	N	N	N	N	N	N	A	N	N	N	N
Sanitary Land Fill	N	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	NN	N	N	A	N	A	N	N
<b>Dry Cleaner</b>	N	N	N	N	N	N	N	N	A	A	A	A	N	N	C	C
<b>Laundromat</b>	N	N	N	N	N	N	N	N	A	A	A	A	N	N	N	C

USES	DISTRICTS															
	R-1A	R-1	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-1	GC-2
<b>Open Air Markets</b>																
Farm and Craft Market	C	C	N	N	N	N	N	N	N	N	A	N	N	N	N	C
Produce Market	C	C	N	N	N	N	N	N	C	N	A	N	N	N	N	C
Flea Market	N	N	N	N	N	N	N	N	N	N	C	C	N	N	N	N
Horticulture Sales w/Outdoor Display	C	C	N	N	N	N	N	N	N	C	C	C	N	N	N	C
<b>Funeral Home</b>	C	C	N	N	N	N	N	N	N	A	A	N	N	A	C	C
<b>Cemetery</b>	C	C	N	N	N	N	N	N	N	N	C	C	N	A	N	N
Mausoleum, Crematorium, Columbarium																
<b>Bus Station</b>	N	N	N	N	N	N	N	N	N	C	A	A	N	N	N	C
<b>Commercial Greenhouse Operations</b>																
No on-premise sales	C	C	N	N	N	N	N	N	N	C	A	A	N	N	N	C
On-premise sales permitted	C	C	N	N	N	N	N	N	N	C	A	A	N	N	N	C
<b>Medical Related</b>																
Medical or Dental Clinic	N	N	N	N	N	N	N	N	A	A	A	N	N	A	C	C
Pharmacies	N	N	N	N	N	N	N	N	A	A	A	N	N	A	C	C
Medical Research Laboratories	N	N	N	N	N	N	N	N	N	A	A	A	A	A	C	C
Retail Medical Supply	N	N	N	N	N	N	N	N	A	A	A	A	N	A	C	C

Date of Amendments:

December 6, 1995	Ordinance No. 138-95	(add GC-1, GC-2 zones to matrix)
January 7, 1997	Ordinance No. 100-97	(C-3 allowed to conditional)
January 20, 1998	Ordinance No. 102-98	(Gateway-sign regs, IRS, etc.)
December 1, 1998	Ordinance No. 135-98	(Gateway-Ext. materials, uses, etc)
October 3, 2000	Ordinance No. 125-00	(add Adult Businesses to matrix)
December 19, 2000	Ordinance No. 135-00	(Setbacks, GC-1, GC-2, M-1, M-2, etc.)
September 18, 2001	Ordinance No. 160-01	(Apartment and Townhouses Uses)
November 6, 2001	Ordinance No. 165-01	(Planned Residential Development)
January 8, 2002	Ordinance No. 102-02	(Materials in GC-1 and GC-2)
June 19, 2007	Ordinance No. 108-07	(Light Manufacturing in C-2)
November 7, 2007	Ordinance No. 118-07	(Add R-1A, Residential Uses, etc.)

## **SECTION 7.4 AIRPORT HAZARD AREAS**

It is the intent of this Section that the following general areas have been designated as Airport Hazard Areas: The area within one-fourth (1/4) of a mile of the Auburn-Opelika Airport that lies within the city limits of Opelika, a municipal airport of the cities of Auburn and Opelika and as more particularly shown or described on “The Zoning Map of Opelika”.

Within an Airport Hazard Area, the following additional regulations shall apply and shall supersede all other district regulations:

- A. District height regulations shall apply to trees as well as to structures, except as hereinafter modified.
- B. Within a Rural Residential District, no structure or tree shall exceed one (1) story or twenty (20) feet in height except as hereinafter modified.
- C. Within the glide approach, no structure or tree shall exceed the forty-to-one (40-to-1) glide approach.
- D. Height regulations concerning trees shall be enforced only when a failure to do so would allow an obstruction to air navigation to occur or exist.

## **SECTION 7.5 FLOOD PLAIN OVERLAY DISTRICT**

The flood hazard areas of the City of Opelika are subject to periodic inundation, which results in hazards to property, health and safety, and may disrupt commerce and governmental services. In addition, this inundation can result in extraordinary public expenditures for flood protection, relief, and impairment of the tax base, which adversely affect the public health, safety and general welfare. These potential flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other properties which are inadequately elevated, flood-proofed or otherwise protected from flood damage. It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

- Control filling, grading, dredging and other development which may increase erosion or flood damage, and;
- Prevent or regulate the construction of flood barriers which unnaturally divert floodwaters or which may increase flood hazards to other lands.

The objectives of this ordinance are to protect human life and health; to minimize expenditure of public money for costly flood control projects; to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; to minimize prolonged business interruptions; to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains; to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and to insure that potential home buyers are notified that property is in a flood area.

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

1. Basis for establishing the area of special flood hazard.  
The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study of Opelika dated September 16, 1981, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared a part of this ordinance.
2. Establishment of development permit.  
A Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.
3. Compliance.  
No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.
4. Abrogation and greater restrictions.  
This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
5. Interpretation.  
In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

6. Warning and disclaimer of liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Opelika or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

**B. Administrative**

1. Designation of building official

The building official of the City of Opelika is hereby appointed to administer and implement the provisions of this ordinance.

2. Permit Procedures

Application for a Development Permit shall be made to the Building Official on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations to the area in question; existing or proposed structures, fill, storage of materials; drainage facilities, and the location of the foregoing. Specifically, the following information is required.

a. Application Stage

- i. Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures;
- ii. Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- iii. Certificate from a registered professional engineer or architect that the non-residential flood-proofed criteria in 7.5, C, 2, b;
- iv. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development, and;

b. Construction Stage

Provide a floor elevation of flood-proofing certification after the lowest floor is completed or in instances where the structure is subject to the regulations applicable to Coastal High Hazard Areas, after placement of the horizontal structural members of the lowest floor. Upon placement of the lowest floor, or flood-proofing by whatever construction means, or

upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the Building Official a certification of the elevation of the lowest floor, flood- proofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Building Official shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

3. Duties and responsibilities of the Building Official.

Duties of the Building Official shall include, but not be limited to:

- a. Review all development permits to assure that the permit requirements of this ordinance have been satisfied.
- b. Advise permitted that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.
- c. Notify adjacent communities and the Alabama Department of Economic and Community Affairs prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- d. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- e. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new substantially improved structures, in accordance with 7.5, B, 2, b.
- f. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with 7.5, B, 2, b.
- g. When flood-proofing is utilized for a particular structure, the Building Official shall obtain certification from a registered professional engineer or architect, in accordance with 7.5, C, 2, b.

- h. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Building Official shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- i. When base flood elevation data or floodway data have not been provided in accordance with 7.5, A, 1, then the Building Official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of 7.5, C.
- j. All records pertaining to the provisions of this ordinance shall be maintained in the office of the Building Official and shall be open for public inspection.

#### 4. Variance Procedures

- a. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section, except for 7.5, B, 4, e, I, iv, and provided the proposed reconstruction, rehabilitation, or restoration will not result in the structure losing its historical designation.
- b. In passing upon such applications, the Board of Zoning Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
  - i. the danger that materials may be swept onto other lands to the injury of others;
  - ii. the danger to life and property due to flooding or erosion damage;
  - iii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - iv. the importance of the services provided by the proposed facility to the community;
  - v. the necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
  - vi. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

- vii. the compatibility of the proposed use with existing and anticipated development;
  - viii. the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
  - ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - x. expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;
  - xi. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- c. Upon consideration of the factors listed above, and the purposes of this ordinance, the Board of Zoning Adjustment may attach such conditions to the granting of variances, as it deems necessary to further the purposes of this ordinance.
- d. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- e. Conditions for variances:
- i. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building;
  - ii. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and; (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - iii. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation

and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

- iv. The Building Official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

### **C. Provisions for flood hazard reduction**

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

In all areas of special flood hazard, the following provisions are required:

- a. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- b. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to a consistent with applicable state requirements for resisting wind forces.
- c. New construction and substantial improvement shall be constructed with materials and utility equipment resistant to flood damage;
- d. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- e. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- f. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- g. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the systems into flood waters;
- h. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and;
- i. Any alteration, repair, reconstruction or improvements to a structure, which complies with the provisions of this ordinance, shall meet the requirements of “new construction” as contained in the ordinance.

## 2. Specific Standards

In all areas of special flood hazard where base flood elevation data have been provided, 7.5, A, 1 or 7.5, B, 3 the following provisions are required:

- a. Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated no lower than (0 feet) above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, opening sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of 7.5, C, 2, c.
- b. Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential structure shall have the lowest floor, including basement, elevated no lower than (0 feet) above the level of the base flood elevation. Structures located in all A-zones may be flood-proofed in lieu of being elevated provided that all areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in 7.5, B, 2, a.3.
- c. Elevated building. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

Designs for complying with this requirement must be either certified by a professional engineer, architect, or meet the following minimum criteria:

- (1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- (2) The bottom of all openings shall be no higher than one foot above grade; and;
- (3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

Electrical, plumbing, and other utility connections are prohibited below the base flood elevation;

Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairways or elevator); and

- i. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
  - ii. Floodways. Located within areas of special flood hazard established in 7.5, A, 1 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:
    - iii. Prohibit encroachment, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;
    - iv. If 7.5, C, 2, d, I is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of 7.5, C.
    - v. Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of 7.5, C, 1, b and the elevation standards of 7.5, C, 2, are met.
3. Standards for streams without established base flood elevations and/or floodways: Located within the areas of special flood hazard established in 7.5, A, 1 when small streams exist but where no base flood data have been provided or where no floodways have been provided, the following provisions apply:
- a. No encroachments, including fill material or structures shall be located within a distance of the stream bank equal to five (5) times the width of the stream at the top of bank or twenty feet each side from top of bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- b. New construction of substantial improvements of structures shall be elevated or flood-proofed to elevations established in accordance with 7.5, C.
4. Standards for subdivision proposals
- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
  - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
  - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood and;
  - d. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than the less of 50 lots or five acres.
5. Standards for areas of shallow flooding (AO) zones.  
 Located within the areas of special flood hazard established in 7.5, A, 1 are areas designated to shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' – 3") where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply.
- a. All new construction and substantial improvement of residential structures shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated, at least two (2) feet above the highest adjacent grade.
  - b. All new construction and substantial improvements of non-residential structures shall:
    - i. have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor including basement shall be elevated at least two (2) feet above the highest adjacent grade, or;
    - ii. together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with natural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

## **SECTION 7.6 GATEWAY CORRIDOR OVERLAY DISTRICT<sup>1</sup>**

It is the intent of this Section to specify that areas that serve as a primary means of entry into Opelika may be designated as Gateway Corridor Overlay Districts. These districts are 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. Gateway Corridor Overlay Districts 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. There are two Gateway Corridor Overlay District designations: Gateway Corridor -1 (GC-1) and Gateway Corridor - 2 (GC-2). The GC-1 is typically to be applied to interchange areas and/or an area to serve as the focal gateway for the City. The development standards for this district are more restrained than for those of the GC-2 because of the desire to have this designated area serve as an aesthetic and functional gateway. The GC-2 is not as restrictive as the GC-1 development standards because the areas designated as GC-2 are to be the areas just beyond the GC-1 designated areas. The GC-2 is to serve as a transition from the GC-1 to conventionally zoned areas. GC-2 areas should typically be located adjacent to GC-1 areas along major corridors leading to the GC-1 area.

### **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.

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

- 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>2</sup>

The following information shall be submitted for approval:

- a. The legal description of the parcel(s) for which the approval is sought and

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<sup>2</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.

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;
  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 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 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 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>3</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.

### **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.

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<sup>3</sup> Date of Amendment: December 2, 1997 Ordinance No. 130-97

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, one-bedroom or two-bedroom type. 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 40% of buildings on the first floor shall be reserved for commercial uses. The minimum 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 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 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 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 2nd floor or higher of nonresidential buildings. The 2nd floor or higher areas shall be designated nonresidential or residential. No mixed uses are allowed on the 2nd floor or higher floors of nonresidential buildings in C-1 zoning districts. If the 2nd floor or higher is designated residential the property owner is not limited to the type of households occupying the 2nd floor or higher. Minimum floor area per residential dwelling on the second floor shall be 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>4</sup>

### **SECTION 7.7 (a) VILLAGE RESIDENTIAL DISTRICT<sup>5</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.

#### **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

<sup>4</sup> Date of Amendment: June 19, 2007

Ordinance No. 108-07

<sup>5</sup> Date of Amendment June 16, 1998

Ordinance No. 111-98

### 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 (1/2) 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 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 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>6</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
  - Barber Shops
  - Beauty Shops
  - Bicycle Shops
  - Book Stores, except adult
  - Dentist's Offices
  - Doctor's Offices
  - Drapery/Upholstery Shops

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<sup>6</sup> Date of Amendment June 16, 1998

Ordinance No. 111-98

- 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 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 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 3,000 square foot maximum building size shall not be exceeded.

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

All structures shall be one 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 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 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 THIS SECTION RESERVED FOR FUTURE USE.**

### **SECTION 7.10 RETIAL ENTERTAINMENT DISTRICT<sup>7</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 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.

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<sup>7</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 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-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 waster 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 15 days of receipts 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 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 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 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 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 amphitheatre.<sup>8</sup>

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<sup>8</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 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 three (3) patrons based on maximum capacity. This requirement may be satisfied on a space-by-space basis by a facility's providing written proof that it has the use of a nearby parking lot available to its patrons (e.g., by contractual arrangement).

**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.

#### **Additional Commercial/recreational Uses:**

**Bowling alley.** Five (5) spaces per lane, 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

**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.

**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.

#### **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 residents, plus one (1) additional space for each additional two 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>2</sup>

**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 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.

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<sup>2</sup> Date of Amendment: September 16, 1997 Ordinance No. 124-97

### **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 feet wide by forty-five feet long with fourteen 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 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 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>3</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.

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<sup>3</sup> Date of Amendment: December 21, 1999 Ordinance No. 136-99

## A. Standards for Design

1. **Minimum Lot Size:** Minimum lot size shall be 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 5,000 square feet. Minimum lot width shall be 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 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 45 degree or 60 degree angles to the street, side yard and rear yard requirements may be reduced to 5 feet provided there must be 30 feet of clear space between homes.

2. **Parking Requirements:** Two 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.
3. **Minimum Park Size:** A minimum area of three acres shall be necessary to establish a mobile home park. A minimum of 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 40 percent of the lot area.
6. **Landscaping:** A mobile home park shall provide a permanent and maintained landscaped area at least 25 feet in width around those portions of the park perimeter (exterior property lines) that border public rights-of-way. A 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 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 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 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 42 feet and a paved surface of not less than 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 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 4 lux (defined as the omens per square meter reaching a surface) and the luminance uniformity ratio should be set at a maximum of 6 to 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 1.5 cubic yards for every 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 12" 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 units 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 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 all 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 20 feet from any other mobile home measured at its closest point.
2. A mobile home shall be at least 10 feet from all exterior property lines and 5 feet from all interior private streets in the park.
3. A mobile home replacing an existing mobile home shall meet the above 10 feet minimum setback requirements and 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**

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

- A. As an office at a legally licensed mobile home sales lot.
- B. A temporary construction on office at a construction job site provided that such us shall cease when a certificate of occupancy is issued.

- C. Campaign Headquarters to be removed immediately after Election Day.
- D. Showing of exhibits or special products for a period not to exceed fourteen days.
- E. For special sales or promotions by civic or non-profit organizations to be removed on a specified date.
- F. 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.
- G. As a commercial use in an emergency situation for a period not to exceed one 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 10,000 square feet and have a front width of not less than 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 15,000 square feet of useable land area and have a front width of not less than 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 20,000 square feet of land area, and have a front width of not less than 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 mobile home shall be: allowed per lot.
4. Maximum Lot Coverage: No mobile home and/or accessory building shall cover more than 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 either 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**

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

- A. 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.
- B. 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.
- C. 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.
- D. Measurements shall be taken with an American National Standards Institute (ANSI) Type 1 or Type 2 sound level meter using the A- weighted scale.
- E. 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 anytime.

## **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>4</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 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 ownership; or if 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 ancillary dwelling unit shall be permitted on a single lot of record.
  - 2. One 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 40% 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 stories in height. In the case where an

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<sup>4</sup> Date of Amendment: July, 15, 2003      Ordinance No. 113-03

ancillary dwelling unit is located above a garage, the garage will be considered the first floor of the two-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**

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 approved only when a minimum of two 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 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 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 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 not affect 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 8.8 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 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 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>5</sup>**

#### **A. Accessory Structures**

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

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<sup>5</sup> Date of Amendment: July, 15, 2003

Ordinance No. 113-03

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:

- All legal property boundaries and dimensions.
  - Location of the proposed structure and all existing structures from lot lines, building lines, and other structures.
  - Property owner name and address of site.
  - Flood plain information (portable buildings may be excluded from this requirement).
  - Standard scale used.
  - Calculation of the proposed building area or impervious surface, whichever is applicable.
  - 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 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 feet from all lot lines and ten feet from any other structures on the same lot, except swimming pools, may be closer than ten 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 front yards.
  4. Any one 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 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>6</sup>
  6. The maximum building area or maximum impervious surface area, whichever is applicable, shall be met according to the applicable district regulations.

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<sup>6</sup> Date of Amendment: November 7, 2007    Ordinance No. 118-07

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.

### **SECTION 8.11.1 TEMPORARY STRUCTURES/ TEMPORARY USES<sup>7</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 3 days in a 12-month time 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, special observances, special functions, special days and the like, the 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

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<sup>7</sup> Date of Amendment: September 4, 2001    Ordinance No. 159-01

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.
  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 30 days. A maximum of four (4) permits per calendar year may be authorized, and at least 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 3 days in a 12-month period and the structure is 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 30 days in a 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 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 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 60 days in the event of circumstances beyond the control of the owner. Application for the extension shall be made at least 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 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 (p. 93) above. Any change in the nature or composition of the temporary business from one 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 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 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>8</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 or more than twelve feet; 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.

#### **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 contiguous townhouses, nor fewer than two 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.

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

2. **Minimum Width.** The area on which any townhouse unit is to be constructed shall be twenty feet.
3. **Separation Requirements-interior or Project.** No portion of townhouse or accessory structure in or related to one group of contiguous townhouses shall be closer than twenty feet to any portion of a townhouse or accessory structure related to another group. Where one townhouse group is parallel or within fifteen degrees of being parallel with another townhouse group no portion of one townhouse group shall be closer than thirty 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 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 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 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 100 feet by the most direct pedestrian route, from a door of the dwelling unit it is intended to serve. Two 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 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 contiguous units, the developers shall provide a fire lane meeting the following minimum specifications.
- A continuous fourteen (14) foot drive extending completely around the sides and rear of the townhouse.
  - A twenty-six (26) foot turn radius to outside of fire lane at each end of the townhouse project.
  - A ten foot (10) intermediate drive between contiguous units of seven or more.
  - 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 feet. There shall be a minimum frontage on a street of not less than twenty feet.
3. Minimum Lot Area. The minimum lot area per townhouse shall be no less than 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 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 10-foot side yard shall be required at the end of each townhouse building for a total of twenty 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>9</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 25 percent of the total floor area of the dwelling shall be used for the home occupation, to a maximum of 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 non-illuminated sign having an area of not more than two (2) square feet may be placed flat on a door,

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<sup>9</sup> Date of Amendment: July, 15, 2003

Ordinance No. 113-03

- 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.
  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 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 CONDITONAL 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 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 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 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>10</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

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

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.

## **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 acres or more adhering to a comprehensive development plan and located on a single tract of land, or on two 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 any site planning dispensations that may be applicable.

### **D. Ownership**

To qualify as a planned unit development the tract or tracts of land included in such development must be under one 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.

## **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 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 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 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 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-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 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 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 300 feet of the limits of the proposed development.
- 4. Development Plan Review Conference.** Within 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 40 days but not less than 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 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>11</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>12</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.

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<sup>11</sup> Date of Amendment: November 6, 2001 Ordinance No. 165-01

<sup>12</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.

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.

## **B. Permitted Uses**

Single, two-family and multiple-family residential dwellings or a combination thereof may be allowed with conditional use approval. However, at least 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 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 identification sign no larger than four 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 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 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>13</sup>

## **C. Conditional Use Approval**

Conditional use approval is required for PRDs 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

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<sup>13</sup> Date of Amendment: November 7, 2007 Ordinance No. 118-07

maybe 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.

#### **E. Density**

No more than 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 50% of the lot area.

#### **G. Lot Size**

Minimum lot size for single-family detached units shall be 6,000 square feet.

#### **H. Lot Width**

Minimum lot width for single-family detached units shall be 60 feet.

#### **I. Minimum Setbacks**

Front setback - 20 feet, Side Setback - five (5) feet or zero (0)<sup>14</sup>, Rear Setback - 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 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 20 feet, whichever is greater. A minimum 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 15 feet from any side property line.

#### **J. Height**

Maximum building height shall be 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.

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

## **L. Landscaping**

Section X *Landscape Regulations* shall be followed for PRDs. For each multi-family unit contained within a PRD, Section X regulations shall be followed independently. A residential buffer or perimeter buffer as required by the Planning Commission shall be required for all PRDs along the perimeter of the PRD and along arterial and collector streets.

## **M. Streetscape**

A minimum of one street tree shall be required on each lot. On a corner lot, a minimum of two 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 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 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 24 feet. A 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 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 side of each street within the PRD. The sidewalks shall be at least 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 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 or more attached dwelling units shall provide open space that is adjacent and accessible from the units. The minimum open space area shall be 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 continuous vertical or horizontal plane. All home façade models shall have a distinctly different front elevation that meet at least two 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 feet wide and minimum 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 different front exterior elevations shall be built on a street with 25 homes or more. For developments less than 25 homes there shall be a minimum of three different exterior elevation models. No single family dwelling unit with the same front elevation shall be built on adjacent lots, nor shall more than 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 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>15</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.

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<sup>15</sup> Date of Amendment: November 7, 2007 Ordinance No. 118-07

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 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.
    - a. All uses proposed for the PRD, show location of different dwelling units with building footprints.
    - b. Provide at least 4 exterior elevation models (front façade renderings) for single-family homes, multi family 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 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 phase of the PRD within 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 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 mobile home per lot will be permitted.

## **SECTION 8.20 NON-CONFORMING USES AND NON-CONFORMING STRUCTURES<sup>16</sup>**

The following rules apply to non-conforming uses and non-conforming structures in the City of Opelika.

### **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.

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<sup>16</sup> Date of Amendment: January 8, 2002      Ordinance No. 102-02

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 seven consecutive months shall constitute discontinuance.

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 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 year or some other set period of time.<sup>17</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>18</sup>

## **C. Nonconforming lots of record<sup>19</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 20% of each required setback lines. In no case shall the width of any side yard be less than 10 feet or any

<sup>17</sup> Date of Amendment: September 19, 2000 Ordinance No. 124-00

<sup>18</sup> Date of Amendment: September 19, 2000 Ordinance No. 124-00

<sup>19</sup> Date of Amendment: October 19, 1999 Ordinance No. 124-99

- rear yard be less than 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 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 of the existing front yard depths of the existing residences.
2. In an R-2 zoning district, the maximum building area may be increased by 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 70% of that required by the terms of this Ordinance.
  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 replatted 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**

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 50 ft. from the property line.
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 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 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-off 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:

- One-Way travel lane            14 ft.
- Two-Way travel lane            22 ft.
- Cul-de-sac diameter            80 ft.

### D. 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 months in any 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**

*Section Reserved (future use)*

### **SECTION 8.24 ADULT BUSINESS REGULATIONS**

#### **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>20</sup> materials or exhibits to minors or have obscene performances with knowledge a minor is present (minor - any unmarried person under the age of eighteen years).
- No person shall expose to public view his or her specified anatomical areas<sup>21</sup> or exhibit/perform specified sexual activities<sup>22</sup> including the showing of pictures or the projection of film in an establishment dealing in alcoholic beverages.

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<sup>20</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, politic or scientific value. (Section 19-531, Code of Ordinances, City of Opelika)

- It shall be unlawful for any person knowingly

## B. Definitions

1. **Adult arcade.** An establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors or similar machines, for viewing by five 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."
2. **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 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).
3. **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.
4. **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,

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<sup>21</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>22</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.

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*.

5. **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-hour period, or rents, leases or lets any single room more than twice in a 24-hour period.
6. **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*.
7. **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*.
8. **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.
9. **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*.
10. **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.

11. **Minor.** Any unmarried person under the age of eighteen (18) years.
12. **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, politic or scientific value.<sup>23</sup>
13. **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.
14. **Person.** Shall mean and includes person(s), firms, corporations, partnerships, associations, or any other forms of business organization or group(s).
15. **Regular and substantial course of conduct and regular and substantial portion of its business.** Shall mean any adult business where one or more of the following conditions exist:
  - a. The area(s) devoted to the display of adult material exceeds 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

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<sup>23</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.

- c. At least 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.
16. **Religious institution.** A structure which is used primarily for religious worship and related religious activities.
17. **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.
18. **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.
19. **Specified sexual activities.** Includes any of the following:<sup>24</sup>
- 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.

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<sup>24</sup> Prohibitions as stated in Section 19 *Indecency and Obscenity* of the Code of Ordinances, City of Opelika or statutes of the State of Alabama.

**20. 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>25</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 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 25 percent of the gross receipts of the business.

### **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.

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<sup>25</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.

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 feet above the level of the floor and separated at least six feet from the nearest area occupied by patrons. No patron shall be permitted within six 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 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 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 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 of 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 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 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 IX

### SIGN REGULATIONS

The following regulations are for the purpose of providing for the orderly placement of signs and outdoor advertising devices within the City of Opelika. It is intended that all advertising devices within the City conform to these standards.

#### SECTION 9.1 EXEMPT SIGNS<sup>1</sup>

Exempt signs are allowed without a sign permit and are not to be included in determinations of the allowable numbers, type and area of signs that require a sign permit. Nothing in this section shall exempt an individual who desires to erect a sign from the necessity of obtaining a building permit, should such be required by the Building Code. The signs identified in the remainder of this section are exempt from the requirement for a sign permit.

- A. Agricultural Signs: Two signs not exceeding thirty-two (32) square feet in aggregate display area for each farm or agricultural support business.
- B. Community Decorations
- C. Construction Signs: One sign per each contractor each sign limited to thirty-two (32) square feet and not exceeding a height of eight (8) feet above ground level; identifying parties involved in construction on the premises and future activity for which the construction is intended. Removal is required within fourteen (14) days following completion of construction.
- D. Directional Signs: Parking lot and other private traffic directional signs, each not exceeding five (5) square feet in area. Such signs are to be limited to guidance of pedestrian or vehicular traffic within the premises on which they are located, and are not to display any logo or name of a product, establishment, service, or any other advertising. The aggregate display area of all such signs shall not exceed forty (40) square feet.
- E. Directory Signs: One (1) sign or directory that does not exceed twenty (20) square feet on any single building wall.
- F. Holiday Decorations
- G. House Numbers

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<sup>1</sup> Date of Amendment: February 7, 1996      Ordinance No. 100-96

- H. Information Kiosks: The total area of the kiosk display is not to exceed forty (40) square feet or a height of eight (8) feet. Kiosks are to be separated from adjacent structures by a minimum of six (6) feet.
- I. Internal Signs
- J. Nameplate
- K. Official Flags and Official Governmental Signs
- L. Political Signs: Temporary political signs are allowed on private property, provided that campaign signs are not to be posted more than thirty (30) days preceding the election, and are to be removed within seven (7) days following the election.
- M. Prohibition Signs
- N. Public Service Message Sign
- O. Real Estate Signs
1. For Sale Signs. Temporary signs indicating the property on which the sign is located is for sale, rent or lease. Only one sign per four hundred (400) linear feet of road frontage is permitted to face each street adjacent to the property. Such signs may not exceed thirty-two (32) square feet.
  2. Model Homes. Temporary signs, banners and decorations attracting attention to a model home and sales office within a new subdivision, provided that the aggregate area of such signing is not to exceed thirty-two (32) square feet.
  3. Open House. Temporary signs or banners attracting attention to an open house, with signage having a maximum aggregate area of thirty-two (32) square feet, to be in place a maximum of seven (7) days.
  4. Directional Sign. A maximum of two signs per listing directing attention to a property for sale or lease. Such signs may not exceed one (1) square foot.
- P. Subdivision Identification Marker: A single structure at the entrance to any subdivision or office or industrial park may not exceed one hundred (100) square feet in display area, nor may two or more such structures at one (1) entrance exceed an aggregate total display area of one hundred-fifty (150) square feet.
- Q. Temporary Promotional Display Signs and Other Temporary Signs: Temporary Signs. The intent of temporary signs is to allow additional signs and sign face area over and-above the normally permitted number of signs and sign face area for short periods of time to advertise grand openings, special events, special

observances, special functions, special days and the like. For districts in which temporary signs are permitted, the following regulations shall apply:

1. Each use of a temporary sign must have a permit authorizing its use issued by The Building Inspection.
2. A permit for the use of a temporary sign can be granted for period of up to 30 days for grand openings of offices, businesses and the like.
3. A permit for the use of temporary signs can be granted up to 14 days for special events, special observances, special functions, special days and the like.
4. A permit, whether 30 days or 14 days, is not renewable for a period of six months for the same business or office or special events, observances, functions and the like.
5. Temporary signs shall adhere to the size, location, height and other requirements in the district in which they are to be located.
6. Window Signs: Window signs are exempt on business premises in all zoning districts.

Table 9.1 GENERAL BUSINESS SIGNS

Sign Description	Size Regulations
Billboards	Off-premises advertising sign of greater than 32 sq. ft., in display area, all-metal construction, twenty (20) ft. clearance between lowest point on sign and ground and not to exceed 480 sq. ft. per side, 2 sides per site.
Canopy Signs	Greater than 2 sq. ft. per sign, but not to exceed 50 sq. ft. per sign.
Elevated Sign	Not to Exceed 200 sq. ft. per sign.
Ground	Not to Exceed 100 sq. ft. per sign
Off-Premises	Not to Exceed 32 sq. ft. per sign.
Projecting Sign	Not to Exceed 100 sq. ft. per sign.
Reader Board	Not to Exceed 100 sq. ft. per sign.
Roof Sign	Not to Exceed 300 sq. ft. per sign
Wall Sign	Not to Exceed 300 sq. ft. per sign.

## SECTION 9.2 PROHIBITED AND ILLEGAL SIGNS

In addition to any sign or advertising device that is not specifically permitted by these regulations, the signs identified in this section are prohibited in all zoning districts in the City. No variance shall be considered by the Board of Zoning Adjustment in regard to any of these signs.

- A. Any sign which simulates or imitates in size, color, lettering or design, any traffic sign or signal, or which makes use of words, symbols or characters in such a manner to interfere with, mislead or confuse pedestrian or vehicular traffic.
- B. Signs consisting of any moving, rotating, flashing, or otherwise animated light or component, except for time and temperature displays and barber poles.
- C. Any sign or sign structure identifying a previous use or activity that has not occupied the site for a period greater than ninety (90) days.
- D. Flashing strips or strings of lights outlining property lines, sales area, rooflines, doors, windows, wall edges or other architectural features of a building. Such lighting is not prohibited alone or in combination with Community or Holiday Decorations or a Temporary Promotional Display.
- E. Signs on public land, other than those erected at the direction or with the permission of a public authority.
- F. Any signs, other than official traffic control devices or highway identification markers, which are erected within the right-of-way lines of any street or alley. Any sign that is erected or maintained outside the right-of-way and interferes with visual clearance along any street, road, or highway between the heights of three (3) and ten (10) feet above ground level.
- G. Signs visible from a public right-of-way that use the word "stop" or "danger" or otherwise present or imply the need or requirement of stopping, caution, the existence of danger, or which for any reason are likely to be confused with any sign displayed or authorized by a public authority.
- H. Signs attached to trees, utility poles or similar structures and signs painted on or attached to rocks and other natural features.
- I. Signs installed, erected, enlarged or structurally altered in violation of the provisions of this Article.
- J. Signs judged to be dangerous because they are not securely affixed to the ground, or otherwise affixed in a permanent manner to an approved supporting structure.

- K. Signs that have become deteriorated or damaged to an extent that the cost of the reconstruction or restoration of such signs is in excess of fifty (50) percent of its replacement value exclusive of foundations.

### **SECTION 9.3 PERMITS REQUIRED**

It shall be unlawful for any person to erect, repair, alter or relocate any General Business Sign, or any sign determined to be non-exempt, within the City without first obtaining a sign permit, which has been duly issued by the Building Official.

#### **A. Permits.**

The following regulations apply generally to all signs and are in addition to the regulations contained elsewhere in this Ordinance.

1. Sign Permit: No sign, unless herein exempted, shall be erected, constructed, structurally altered or relocated, except as provided in this Ordinance, until a permit has been issued by the Administrator or his designee. Before any permit is issued, an application provided by the Administrator or his designee shall be filed together with three sets of drawings or specifications, one to be returned to the applicant, as may be necessary to advise and acquaint the administrator or his designee fully with the location in relation to adjacent buildings, construction, materials, manner of illuminating or securing or fastening, and number of signs applied for and the wording of the sign or advertisement to be carried on the sign for the purpose of calculating the sign face area only.
2. Electrical Permit: All signs which are electrically illuminated shall require a separate electrical permit and an inspection.
3. Permit Time Limit: All signs shall be erected on or before the expiration of six months from the date of issuance of the permit; otherwise the permit shall become null and void, and a new permit shall be required.

### **SECTION 9.4 MAINTENANCE**

All signs and components thereof shall be maintained in good repair. All signs, components, supports and their surroundings shall be maintained in a safe, clean and attractive condition.

## **SECTION 9.5 GENERAL REQUIREMENTS APPLICABLE TO ALL SIGNS**

- A. Projections. No sign shall project beyond a property line or into a public right-of-way, except as specifically permitted herein.
- B. Building Code Requirements. All signs shall comply in every respect with the building code of the city whether exempt or permitted by- this Article.
- C. Obstruction to Exit Ways. No sign shall be erected, displayed, or maintained so as to obstruct any fire escape, any required exit way, Window or door opening used as a means of egress, or to obstruct any other means of egress required by the building code of the city.
- D. Obstruction of Ventilation. No sign shall be erected, displayed, or maintained in a manner that interferes with any opening required for ventilation under the building code of the city.
- E. Illumination Devices. Devices that illuminate a sign or signs shall be placed and shielded so that the direct light rays there from, or from the sign itself, shall not be cast into the eyes of any passing motorist.
- F. Setback. All signs are excluded from the minimum setback requirement regulated by the district in which they are located. Except the "Traffic Safety Triangle" which is an isosceles triangle with two 25-foot sides extending from the street corner along the curbs. In addition, any ingress and egress area required for visibility from vehicles shall not have any sign from three (3) feet above the ground to ten (10) feet above the ground.

## **SECTION 9.6 RESIDENTIAL SIGNS<sup>2</sup>**

It shall be unlawful to erect, permit the erection of, display or permit the display of any sign in a residential district unless such sign is expressly permitted by Section 9.1 hereof, or Section 8.14 D. if applicable, and is therefore exempt from the requirement to obtain a sign permit.

## **SECTION 9.7 GENERAL BUSINESS SIGNS**

It shall be unlawful to erect, permit the erection of, display or permit the display of any General Business Sign in any zoning district unless such sign is expressly permitted by this Section subject to all of the limitations and provisions stated herein.

- A. General Business Signs may be reader boards, canopy signs, ground signs, projecting signs, off-premises signs, elevated signs, roof signs, wall signs, and

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<sup>2</sup> Date of Amendment: February 7, 1996      Ordinance No. 100-96

open letter signs, subject to the limitations set forth in this Article. Each General Business Sign may communicate an advertisement for more than one product, service or subject.

- B. Any combination of the General Business Signs described herein is permitted in the business and manufacturing districts. The maximum total display area of General Business Signs on a lot, parcel or premises may, therefore, be distributed among one or more signs, but it is limited in each district in accordance with the provisions of this Section.
- C. In the Downtown Commercial (C-1) District and Office/Retail (C-2) District, the maximum total display area of all General Business Signs on any single lot or premises may not exceed two hundred (200) square feet, plus one (1) additional square foot of display area for each foot of building front that exceeds thirty (30) feet. No billboards or portable signs are permitted in these zoning districts.<sup>3</sup>
- D. In the General Commercial (C-3) and Industrial (M-1, M-2) Districts the maximum total display area of all General Business Signs on any single lot shall not exceed three hundred (300) square feet, plus one (1) additional square foot of display area for each foot of setback beyond the setback required by the district in which the development is located.<sup>4</sup>
- E. In a group development, the development is entitled to the full display area of signage and each separate business in the group development is likewise entitled to the same aggregate display area of signage. However, a group development shall be permitted no more than one (1) freestanding sign per street frontage. It is recommended that a Multiple Use Identification Sign be used (see definition). Businesses, developed on outlot parcels but being part of the group development by virtue of shared parking and access will be permitted their own freestanding sign. However, in no case shall more than one freestanding sign be located along the same frontage or side of the building.<sup>5</sup>

Furthermore, this allowance is applicable to office and industrial buildings that house more than one (1) business, service or manufacturing operation. However, in the Shopping Center District these standards may be varied by the planning commission when they review signage as part of overall site plan approval.

- F. In no case shall any sign, or signs, whether exempt of a General Business Sign, be permitted in a zoning district that exceeds the size, height and setback requirements established by this Section and Ordinance.

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<sup>3</sup> Date of Amendment: February 7, 1996      Ordinance No. 100-96

<sup>4</sup> Date of Amendment: February 7, 1996      Ordinance No. 100-96

<sup>5</sup> Date of Amendment: December 6, 1995      Ordinance No. 136-95

## **SECTION 9.8 BILLBOARDS AND PORTABLE SIGNS**

- A. No new billboard structures shall be permitted in any district.<sup>6,7</sup>
- B. Portable signs are not permitted in any District.

## **SECTION 9.9 NON-CONFORMANCE OF EXISTING SIGNS**

All existing signs that are not specifically permitted or that do not comply with all the provisions of this Article shall be considered nonconforming signs and shall not, after the effective date of this Article, be enlarged, structurally altered or extended unless such signs shall be made to comply with all provisions of this Section.

- A. Normal repairs and repainting of nonconforming signs is permitted. However, when a nonconforming sign is structurally repaired, damaged or destroyed by any means to the extent of fifty (50) percent or more of its replacement value, exclusive of foundations, it shall not thereafter be restored, unless such sign shall be made to conform to all the provisions of this Section.
- B. All existing billboards located in any zoning district, except as permitted in 9.8 part 2 shall be considered nonconforming and shall be regulated in accordance with the provisions of this Section.<sup>8</sup>
- C. All existing portable signs located in any zoning district shall be considered nonconforming and shall be removed no later than ninety (90) days from the effective date of this ordinance.

## **SECTION 9.10 APPROVAL OF PLANS AND ISSUANCE OF SIGN PERMIT**

It shall be unlawful for the Building Official to approve any plans or to issue a permit for a sign until he has inspected such plans and found them in conformity with the Ordinance. The Building Official shall therefore require a plan of the proposed sign that indicates the scale of the drawing, or is properly dimensioned.

- A. In order to satisfy himself as to the conformity of the proposed sign with this Ordinance, the Building Official may also require the submission of a survey of the lot or parcel upon which the sign is to be placed and which indicates its proposed location on the lot; the general location of existing and proposed buildings and other structures on the lot and the setbacks of said structures; and

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<sup>6</sup> Date of Amendment February 7, 1996      Ordinance No. 100-96

<sup>7</sup> Date of Amendment January 8, 2002      Ordinance No. 102-02

<sup>8</sup> Date of Amendment: February 7, 1996      Ordinance No. 100-96

the existing and intended use of any and all structures, whether existing or proposed.

- B. If the proposed sign, as set forth in the application, is in conformity with all the provisions of this Ordinance, and other City Codes, the Building Official shall issue a sign permit. If, on the other hand, the application for a sign permit is not approved, he shall state in writing on the application the cause for disapproval.

## 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.
- Mono-culture:** A single type and species of planting. This type of planting is prohibited by this code.
- Mulch:** A natural planting material such as pine straw or tree bark used to control weed growth, reduce soil erosion and reduce water loss.
- Parking Lot Planting:** 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."
- Parking Lot Island:** 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).
- Parallel Planting Peninsula:** A planting island that extends out into the parking area, and is bounded on at least one 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).
- Recommended Tree:** Any one of the trees listed under "Section 10.9 Recommended Trees." These trees are well suited for the soils-and climate of Opelika, Alabama.
- Significant Tree:** Any tree with a caliper of six (6) inches or greater.
- Shrub:** 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 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 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 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 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

<b>Square Footage of the Developed Area*</b>	<b>Number of Points Required</b>
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 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

<b>Type of Plant Material</b>	<b>Minimum Size</b>	<b>Point Value</b>
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 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 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 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 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-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 understory tree every 15 feet, or one medium tree every 30 feet, or one large tree every 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 6" and 10", fifteen (15) fewer points are required. For each existing "Significant Tree" between 11" and 24", twenty (20) fewer points are required. For each existing "Significant Tree" with a D.B.H. over 24", 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 25" 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 a 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

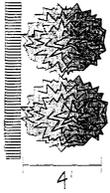
- |                      |                            |
|----------------------|----------------------------|
| 1. Red Maple         | <i>Acer rubrum</i>         |
| 2. River Birch       | <i>Betula nigra</i>        |
| 3. Ginkgo Tree       | <i>Gingo biloba</i>        |
| 4. Southern Magnolia | <i>Magnolia 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

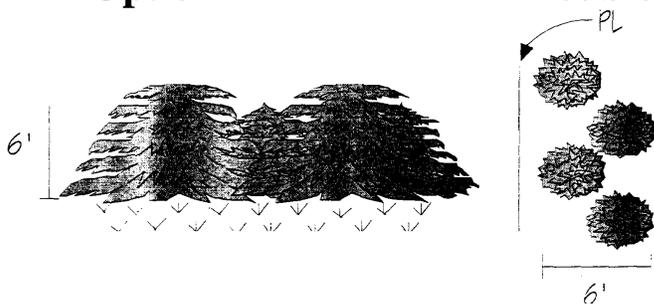
- |                     |   |
|---------------------|---|
| 1. Green Ash        | <i>Fraxinum pennsylvanic</i>                                    |
| 2. Tulip Poplar     | <i>Liriodendron americana</i>                                   |
| 3. White Oak        | <i>Quercus alba</i>   |
| 4. Overcup Oak      | <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*

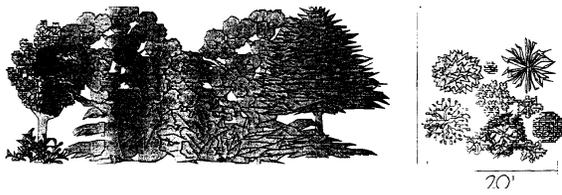
Option 1 – Buffer and Hedge



**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 unconstitutional.

#### **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.