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ORDINANCE NO. 113-16

AN ORDINANCE RELATING TO AN AMENDMENT TO SECTION VII (DISTRICT REGULATIONS) OF THE OPELIKA ZONING ORDINANCE (ORDINANCE NO. 124-91), AT SECTION 7.3.B TO IDENTIFY THE BUSINESS OF OUTDOOR ADVERTISING AS A PROHIBITED USE IN THE MATRIX FOR RESIDENTIAL AND COMMERCIAL DISTRICTS; AND AN ORDINANCE RELATING TO AN AMENDMENT TO SECTION VIII (GENERAL REGULATIONS) OF THE OPELIKA ZONING ORDINANCE (ORDINANCE NO. 124-91), AT SECTION 8.26 TO PROVIDE THAT THE BUSINESS OF OUTDOOR ADVERTISING IS A PROHIBITED USE IN ALL ZONING DISTRICTS WITH EXCEPTIONS; AND AN ORDINANCE RELATING TO AMENDMENTS TO SECTION IX (SIGN REGULATIONS) OF THE OPELIKA ZONING ORDINANCE (ORDINANCE NO. 124-91), AND SPECIFICALLY, THE ADOPTION OF A NEW OPELIKA SIGN ORDINANCE IN PLACE OF SECTION IX (SIGN REGULATIONS) OF THE ZONING ORDINANCE, WITH PROPOSED AMENDMENTS TO SECTION IX THAT WILL PROVIDE FOR A PURPOSE, INTENT AND SCOPE; PROVIDE FOR DEFINITIONS; PROVIDE FOR APPLICABILITY; PROVIDE FOR PROHIBITED SIGNS; PROVIDE GENERAL PROVISIONS FOR SIGNS (SUCH AS MEASUREMENT OF SIGN SIZE, MEASUREMENT OF SIGN HEIGHT OF A FREESTANDING SIGN; , SIGN ILLUMINATION FOR TEMPORARY AND PERMANENT SIGNS; VIEWPOINT NEUTRALITY; SUBSTITUTION OF NONCOMMERCIAL SPEECH FOR COMMERCIAL SPEECH; CONSENT OF LEGAL OWNER OF PROPERTY; SIGNS ON PUBLIC PROPERTY; SIGNS THAT OBSTRUCT MEANS OF EGRESS; SIGNS THAT INTERFERE WITH VENTILATION OPENINGS; SIGNS MUST MAINTAIN CLEARANCE FOR UTILITIES AND SHALL NOT INTERFERE WITH SURFACE AND UNDERGROUND WATER OR WITH DRAINAGE; SIGNS SHALL NOT BE ATTACHED TO CERTAIN PROPERTY AND SHALL NOT IMPAIR ROOF ACCESS; SIGNS DECLARED A NUISANCE AND REPAIR; SIGNS PRESENTING IMMEDIATE PERIL TO PUBLIC HEALTH OR SAFETY; STREET ADDRESS SIGNS; INGRESS AND EGRESS SIGNS; FLAG POLES AND FLAGS; FLAG BRACKETS, FLAG STANCHIONS AND FLAGS; NONCOMMERCIAL ONSITE PARKING SPACE SIGNS; SIGNS AT CONVENIENCE STORES WITH FUEL ISLANDS; FREESTANDING SIGNS; WALL SIGNS; WALL SIGNS AT CAR WASHES; WALL SIGNS AT RESTAURANTS; DRIVE-THROUGH LANE SIGNS; UMBRELLA SIGNS; AWNING SIGNS; CANOPY SIGNS; CHANGEABLE COPY SIGNS; PROJECTING SIGNS; WINDOW SIGNS; DOOR SIGNS; AND WIND-ACTIVATED SIGNS; PROVIDE TEMPORARY AND PERMANENT SIGNS ALLOWED IN ZONING DISTRICTS; PROVIDE TEMPORARY SIGNS IN ZONING DISTRICTS; PROVIDE ALLOWED PERMANENT SIGNS IN ZONING DISTRICTS; PROVIDE FOR BUILDING PERMITS; PROVIDE FOR SIGN PERMITS; PROVIDE FOR NON-CONFORMING SIGNS; PROVIDE FOR MISCELLANEOUS SIGN PROVISIONS (INCLUDING MAINTENANCE OF SIGN LOCATION, LUMINANCE/BRIGHTNESS LEVELS, AND REDUCTION OF NON-DIGITAL BILLBOARDS THROUGH CONVERSION TO, OR REPLACEMENT BY, DIGITAL BILLBOARDS); PROVIDE FOR VIOLATIONS, PENALTIES; PROVIDE FOR REMOVAL OF UNLAWFUL AND DANGEROUS SIGNS; PROVIDE FOR SEVERABILITY (INCLUDING SEVERABILITY IN GENERAL, SEVERABILITY WHERE LESS SPEECH RESULTS SEVERABILITY OF

**PROVISIONS PERTAINING TO PROHIBITED SIGNS, AND SEVERABILITY OF PROHIBITION ON BILLBOARDS; PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES OR PARTS THEREOF; AND PROVIDE AN EFFECTIVE DATE.**

**WHEREAS**, the City of Opelika finds and determines that it is appropriate to update and revise its Zoning Code relative to signs;

**WHEREAS**, the City of Opelika finds and determines that it is appropriate to delete sections, subsections, paragraphs, subparagraphs, divisions, subdivisions, clauses, sentences, phrases, words, and provisions of the existing ordinance which are obsolete or superfluous, and/or which have not been enforced, and/or which are not enforceable, and/or which would be severable by a court of competent jurisdiction;

**WHEREAS**, the City of Opelika finds and determines that it is appropriate to ensure that the Zoning Code as it relates to signs is in compliance with all constitutional and other legal requirements;

**WHEREAS**, the City of Opelika finds and determines that the purpose, intent and scope of its signage standards and regulations should be detailed so as to further describe the beneficial aesthetic and other effects of the City's sign standards and regulations, and to reaffirm that the sign standards and regulations are concerned with the secondary effects of speech and are not designed to censor speech or regulate the viewpoint of the speaker;

**WHEREAS**, the City of Opelika finds and determines that the limitations on the size (area), height, number, spacing, and setback of signs, adopted herein, are based upon sign types;

**WHEREAS**, the City of Opelika finds and determines that limitations on signs are related to the zoning districts for the parcels and properties on which they are located;

**WHEREAS**, the City of Opelika finds and determines that various signs that serve as signage for particular land uses, such as drive-through lanes for businesses, are based upon content-neutral criteria in recognition of the functions served by those land uses, but not based upon any intent to favor any particular viewpoint or control the subject matter of public discourse;

**WHEREAS**, the City of Opelika finds and determines that it is appropriate to take into account the City's zoning districts when determining the appropriate nature of certain sign types;

**WHEREAS**, the City of Opelika finds and determines that the luminance and brightness of signs that utilize lighting should be controlled in the public interest, including both aesthetics and traffic and pedestrian safety;

**WHEREAS**, the City of Opelika finds and determines that there should be luminance and brightness standards for illuminated signs based upon a unit of measurement known as nits, *see Report on Digital Sign Brightness Prepared For the Nevada State Department of Transportation, Washoe County, City of Reno and City of Sparks By Jerry Wachtel, President, The Veridian Group, Inc., Berkeley, CA November 2014;*

**WHEREAS**, the City of Opelika finds and determines that the sign standards and regulations adopted hereby still allow adequate alternative means of communications;

**WHEREAS**, the City of Opelika finds and determines that the sign standards and regulations adopted hereby allow and leave open adequate alternative means of communications, such as newspaper advertising and communications, internet advertising and communications, advertising and communications in shoppers and pamphlets, advertising and communications in telephone books, advertising and communications on cable and satellite television, advertising and communications on UHF and/or VHF television, advertising and communications on AM and/or FM radio, advertising and communications on satellite and internet radio, advertising and communications via direct mail, and other avenues of communication available in the City of Opelika [*see State v. J & J Painting*, 167 N.J. Super. 384, 400 A.2d 1204, 1205 (Super. Ct. App. Div. 1979); *Board of Trustees of State University of New York v. Fox*, 492 U.S. 469, 477 (1989); *Green v. City of Raleigh*, 523 F.3d 293, 305-306 (4th Cir. 2007); *Naser Jewelers v. City of Concord*, 513 F.3d 27 (1st Cir. 2008); *Sullivan v. City of Augusta*, 511 F.3d 16, 43-44 (1st Cir. 2007); *La Tour v. City of Fayetteville*, 442 F.3d 1094, 1097 (8th Cir. 2006); *Reed v. Town of Gilbert*, Ariz., 587 F.3d 966, 980-981 (9th Cir. 2009), *aff'd in part & remanded in part on other grounds*, 832 F. Supp. 2d 1070, *aff'd*, 707 F.3d 1057, 1063 (9th Cir. 2013), *cert. granted*, 134 S. Ct. 2900 (2014), *rev'd on other grounds & remanded*, 135 S. Ct. 2218 (2015)];

**WHEREAS**, the City of Opelika finds and determines that the provisions of Section IX of the Zoning Code that replace the current Section IX are consistent with all applicable policies of the City's 2030 Master Plan;

**WHEREAS**, the City of Opelika finds and determines that these amendments are not in conflict with the public interest;

**WHEREAS**, the City of Opelika finds and determines that these amendments will not result in incompatible land uses;

**WHEREAS**, the City of Opelika recognizes that under established Supreme Court precedent, a law that is content-based is subject to strict scrutiny under the First Amendment of the U.S. Constitution, and such law must therefore satisfy a compelling governmental interest;

**WHEREAS**, the City of Opelika recognizes that under established Supreme Court precedent, a compelling government interest is a higher burden than a substantial or significant governmental interest;

**WHEREAS**, the City of Opelika recognizes that under established Supreme Court precedent, aesthetics is not a compelling governmental interest but is a substantial governmental interest;

**WHEREAS**, the City of Opelika recognizes that until a recent Supreme Court decision released in June 2015, there had not been clarity as to what constitutes a content-based law as distinguished from a content-neutral law;

**WHEREAS**, the City of Opelika recognizes that in *Reed v. Town of Gilbert*, Ariz., — U.S. —, 135 S. Ct. 2218 (2015), the United States Supreme Court, in an opinion authored by

Justice Thomas, and joined in by Chief Justice Roberts, and Justices Scalia, Alito, Kennedy and Sotomayer, addressed the constitutionality of a local sign ordinance that had different criteria for different types of temporary noncommercial signs;

**WHEREAS**, the City of Opelika recognizes that in *Reed*, the Supreme Court held that content-based regulation is presumptively unconstitutional and requires a compelling governmental interest;

**WHEREAS**, the City of Opelika recognizes that in *Reed*, the Supreme Court held that government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed;

**WHEREAS**, the City of Opelika recognizes that in *Reed*, the Supreme Court held that even a purely directional message, which merely gives the time and location of a specific event, is one that conveys an idea about a specific event, so that a category for directional signs is therefore content-based, and event-based regulations are not content neutral;

**WHEREAS**, the City of Opelika recognizes that in *Reed*, the Supreme Court held that if a sign regulation on its face is content-based, neither its purpose, nor function, nor justification matter, and the sign regulation is therefore subject to strict scrutiny and must serve a compelling governmental interest;

**WHEREAS**, the City of Opelika recognizes that in *Reed*, Justice Alito in a concurring opinion joined in by Justices Kennedy and Sotomayer pointed out that municipalities still have the power to enact and enforce reasonable sign regulations;

**WHEREAS**, the City of Opelika recognizes that Justice Alito in the concurring opinion joined in by Justices Kennedy and Sotomayer provided a list of rules that would not be content-based;

**WHEREAS**, the City of Opelika recognizes that Justice Alito noted that these rules, listed below, were not a comprehensive list of such rules;

**WHEREAS**, the City of Opelika recognizes that Justice Alito included the following rules among those that would not be content-based: (1) rules regulating the size of signs, which rules may distinguish among signs based upon any content-neutral criteria such as those listed below; (2) rules regulating the locations in which signs may be placed, which rules may distinguish between freestanding signs and those attached to buildings; (3) rules distinguishing between lighted and unlighted signs; (4) rules distinguishing between signs with fixed messages and electronic signs with messages that change; (5) rules that distinguish between the placement of signs on private and public property; (6) rules distinguishing between the placement of signs on commercial and residential property; (7) rules distinguishing between on-premises and off-premises signs [see discussion in Memorandum dated September 11, 2015 from Lawrence Tribe to Nancy Fletcher, President, Outdoor Advertising Association of America, re Applying the First Amendment to Regulations Distinguishing Between Off-premises and On-premises Signs After *Reed v. Town of Gilbert*]; (8) rules restricting the total number of signs allowed per mile of roadway; and (9) rules imposing time restrictions on signs advertising a one-time event, where rules of this

nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed;

**WHEREAS**, the City of Opelika recognizes that Justice Alito further noted that in addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech [*see Pleasant Grove City, Utah v. Sumnum*, 555 U.S. 460, 467-469 (2009)], and that government entities may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots;

**WHEREAS**, the City of Opelika recognizes that Justice Alito noted that the *Reed* decision, properly understood, will not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate esthetic objectives, including rules that distinguish between on-premises and off-premises signs;

**WHEREAS**, the City of Opelika recognizes that as a result of the *Reed* decision, it is appropriate and necessary for local governments to review and analyze their sign standards and regulations, beginning with their temporary sign standards and regulations, so as to make the necessary changes to conform with the holding in *Reed*;

**WHEREAS**, the City of Opelika recognizes that under established Supreme Court precedent, commercial speech may be subject to greater restrictions than noncommercial speech and that doctrine is true for both temporary signs as well as for permanent signs;

**WHEREAS**, the City of Opelika finds and determines that there have been several judicial decisions where courts have not given full effect to severability clauses that applied to sign regulations and where the courts have expressed uncertainty over whether the legislative body intended that severability would apply to certain factual situations despite the presumption that would ordinarily flow from the presence of a severability clause;

**WHEREAS**, the City of Opelika finds and determines that the City has consistently adopted and enacted severability provisions in connection with its ordinance code provisions; and the City wishes to ensure that severability provisions apply to its Zoning regulations, including its sign standards;

**WHEREAS**, the City of Opelika finds and determines that there be an ample record of its intention that the presence of a severability clause in connection with the City's sign regulations be applied to the maximum extent possible, even if less speech would result from a determination that any provision is invalid or unconstitutional for any reason whatsoever;

**WHEREAS**, the City of Opelika finds and determines that objects and devices such as graveyard and cemetery markers visible from a public area, vending machines or express mail drop-off boxes visible from a public area, decorations that do not constitute advertising visible from a public area, artwork that does not constitute advertising visible from a public area; a building's architectural features visible from a public area, or a manufacturer's or seller's markings on machinery or equipment visible from a public area are not within the scope of what is intended to be regulated through zoning regulations that pertain to signage;

**WHEREAS**, the City of Opelika finds and determines that the aforesaid objects and devices are commonly excluded or exempted from being regulated as signs in zoning regulations and sign regulations, and that extending a regulatory regime to such objects or devices would be inconsistent with the free speech clause of the First Amendment;

**WHEREAS**, the City of Opelika finds and determines that it should continue to prohibit discontinued signs regardless of whether or not there was any intent to abandon the sign;

**WHEREAS**, the City of Opelika finds and determines that a traffic control device sign, exempt from regulation under the City's zoning regulations for signage, is any government sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard, and according to the MUTCD traffic control device signs include those signs that are classified and defined by their function as regulatory signs (that give notice of traffic laws or regulations), warning signs (that give notice of a situation that might not readily be apparent), and guide signs (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information);

**WHEREAS**, the City of Opelika finds and determines that it is appropriate to prohibit certain vehicle signs similar to the prohibition in Section 7.05.00(x) of the Land Development Regulations of the Town of Orange Park, which were upheld against a constitutional challenge in *Perkins v. Town of Orange Park*, 2006 WL 5988235 (Fla. 4th Cir. Ct.);

**WHEREAS**, the City of Opelika finds and determines that in order to preserve the city as a desirable community in which to live, vacation and do business, a pleasing, visually-attractive urban environment is of foremost importance;

**WHEREAS**, the City of Opelika finds and determines that the regulation of signs within the city is a highly contributive means by which to achieve this desired end, and that the sign standards and regulations in Exhibit A attached to this proposed Ordinance are prepared with the intent of enhancing the urban environment and promoting the continued well-being of the city;

**WHEREAS**, the City of Opelika finds and determines that the regulation of signage for purposes of aesthetics has long been recognized as advancing the public welfare;

**WHEREAS**, the City of Opelika finds and determines that as far back as 1954 the United States Supreme Court recognized that "the concept of the public welfare is broad and inclusive," that the values it represents are "spiritual as well as physical, aesthetic as well as monetary," and that it is within the power of the legislature "to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled" [Justice Douglas in *Berman v. Parker*, 348 U.S. 26, 33 (1954)];

**WHEREAS**, the City of Opelika finds and determines that aesthetics is a valid basis for zoning, and the regulation of the size of signs and the prohibition of certain types of signs can be based upon aesthetic grounds alone as promoting the general welfare [see *Merritt v. Peters*, 65 So. 2d 861 (Fla. 1953); *Dade Town v. Gould*, 99 So. 2d 236 (Fla. 1957); *E.B. Elliott Advertising Co. v. Metropolitan Dade Town*, 425 F.2d 1141 (5th Cir. 1970), *cert. dismissed*, 400 U.S. 805 (1970)];

**WHEREAS**, the City of Opelika finds and determines that the enhancement of the visual environment is critical to a community's image;

**WHEREAS**, the City of Opelika finds and determines that the sign control principles set forth herein create a sense of character and ambiance that distinguishes the city as one with a commitment to maintaining and improving an attractive environment;

**WHEREAS**, the City of Opelika finds and determines that the beauty of the City of Opelika, both with regard to its natural and built and developed environment has provided the foundation for the economic base of the City's development, and that the City's sign regulations not only help create an attractive community for its residents, but also bolster Opelika's image;

**WHEREAS**, the City of Opelika finds and determines that the goals, objectives and policies from planning documents developed over the years, demonstrate a strong, long-term commitment to maintaining and improving the City's attractive and visual environment;

**WHEREAS**, the City of Opelika finds and determines that, from a planning perspective, one of the most important community goals is to define and protect aesthetic resources and community character;

**WHEREAS**, the City of Opelika finds and determines that, from a planning perspective, sign control can create a sense of character and ambiance that distinguishes one community from another;

**WHEREAS**, the City of Opelika finds and determines that the purpose of the regulation of signs as set forth in Exhibit A to this proposed Ordinance is to promote the public health, safety and general welfare through a comprehensive system of reasonable, consistent and nondiscriminatory sign standards and requirements;

**WHEREAS**, the City of Opelika finds and determines that the sign regulations in Exhibit A to this proposed Ordinance are intended to enable the identification of places of residence and business;

**WHEREAS**, the City of Opelika finds and determines that the sign regulations in Exhibit A to this proposed Ordinance are intended to allow for the communication of information necessary for the conduct of commerce;

**WHEREAS**, the City of Opelika finds and determines that the sign regulations in Exhibit A to this proposed Ordinance are intended to lessen hazardous situations, confusion and visual clutter caused by proliferation, improper placement, illumination, animation and excessive height, area and bulk of signs which compete for the attention of pedestrian and vehicular traffic;

**WHEREAS**, the City of Opelika finds and determines that the sign regulations in Exhibit A to this proposed Ordinance are intended to enhance the attractiveness and economic well-being of the city as a place to live, vacation and conduct business;

**WHEREAS**, the City of Opelika finds and determines that the sign regulations in Exhibit A to this proposed Ordinance are intended to protect the public from the dangers of unsafe signs;

**WHEREAS**, the City of Opelika finds and determines that the sign regulations in Exhibit A to this proposed Ordinance are intended to permit signs that are compatible with their surroundings and aid orientation, and to preclude placement of signs in a manner that conceals or obstructs adjacent land uses or signs;

**WHEREAS**, the City of Opelika finds and determines that the sign regulations in Exhibit A to this proposed Ordinance are intended to encourage signs that are appropriate to the zoning district in which they are located and which are consistent with the category of use to which they pertain;

**WHEREAS**, the City of Opelika finds and determines that the sign regulations in Exhibit A to this proposed Ordinance are intended to curtail the size and number of signs and sign messages to the minimum reasonably necessary to identify a residential or business location and the nature of any such business;

**WHEREAS**, the City of Opelika finds and determines that the sign regulations in Exhibit A to this proposed Ordinance are intended to establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains;

**WHEREAS**, the City of Opelika finds and determines that the sign regulations in Exhibit A to this proposed Ordinance are intended to preclude signs from conflicting with the principal permitted use of the site or adjoining sites;

**WHEREAS**, the City of Opelika finds and determines that the sign regulations in Exhibit A to this proposed Ordinance are intended to regulate signs in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians;

**WHEREAS**, the City of Opelika finds and determines that the sign regulations in Exhibit A to this proposed Ordinance are intended to require signs to be constructed, installed and maintained in a safe and satisfactory manner;

**WHEREAS**, the City of Opelika finds and determines that the sign regulations in Exhibit A to this proposed Ordinance are intended to preserve and enhance the natural and scenic characteristics of this community;

**WHEREAS**, the City of Opelika finds and determines that the Zoning Ordinance is the manner by which the City has chosen to regulate signage;

**WHEREAS**, the City of Opelika finds and determines that the Zoning Ordinance and its signage regulations were and are intended to maintain and improve the quality of life for all citizens of the City;

**WHEREAS**, the City of Opelika finds and determines that in meeting the purposes and goals established in these preambles, it is appropriate to prohibit and/or to continue to prohibit certain sign types;

**WHEREAS**, the City of Opelika finds and determines that consistent with the foregoing preambles, it is appropriate to prohibit and/or to continue to generally prohibit the sign types listed in Sec. 9.4 Prohibited Signs, within Exhibit A to proposed Ordinance 113-16;

**WHEREAS**, the City of Opelika finds and determines that it is appropriate that where a billboard is subject to the jurisdiction of the Alabama Department of Transportation (ALDOT) that a billboard be considered to be destroyed when its level of damage is equivalent to the definition for a destroyed sign utilized by the ALDOT;

**WHEREAS**, the City of Opelika finds and determines that billboards detract from the natural and manmade beauty of the City;

**WHEREAS**, the City of Opelika agrees with the American Society of Landscape Architects' determination that billboards tend to deface nearby scenery, whether natural or built and the Sierra Club's opposition to billboard development and proliferation and the American Society of Civil Engineers Policy Statement 117 on Aesthetics that aesthetic quality should be an element of the planning, design, construction, operations, maintenance, renovation, rehabilitation, reconstruction, and security enhancement of the built environment;

**WHEREAS**, the City of Opelika recognizes that states such as Vermont, Alaska, Maine, and Hawaii have prohibited the construction of billboards in their states and are now billboard-free in an effort to promote aesthetics and scenic beauty;

**WHEREAS**, the City of Opelika agrees with the courts that have recognized that outdoor advertising signs tend to interrupt what would otherwise be the natural landscape as seen from the highway, whether the view is untouched or ravished by man, and that it would be unreasonable and illogical to conclude that an area is too unattractive to justify aesthetic improvement [*see, e.g., E. B. Elliott Adv. Co. v. Metropolitan Dade Town*, 425 F.2d 1141 (5th Cir. 1970), *cert. dismissed*, 400 U.S. 805 (1970); *John Donnelly & Sons, Inc. v. Outdoor Advertising Bd.*, 339 N.E.2d 709, 720 (Mass. 1975)];

**WHEREAS**, the City of Opelika recognizes that local governments may separately classify off-site and on-site advertising signs in taking steps to minimize visual pollution [*see, e.g., City of Lake Wales v. Lamar Advertising Association of Lakeland Florida*, 414 So.2d 1030, 1032 (Fla. 1982)];

**WHEREAS**, the City of Opelika finds and determines that billboards attract the attention of drivers passing by the billboards, thereby adversely affecting traffic safety and constituting a public nuisance and a noxious use of the land on which the billboards are erected;

**WHEREAS**, the City of Opelika finds, determines and recognizes that billboards are a form of advertisement designed to be seen without the exercise of choice or volition on the part of the observer, unlike other forms of advertising that are ordinarily seen as a matter of choice on the part of the observer [*see, e.g., Packer v. Utah*, 285 U.S. 105 (1932); and *General Outdoor Advertising Co. v. Department of Public Works*, 289 Mass. 149, 193 N.E. 799 (1935)];

**WHEREAS**, the City of Opelika acknowledges that the United States Supreme Court and many federal courts have accepted legislative judgments and determinations that the prohibition

of billboards promotes traffic safety and the aesthetics of the surrounding area. [see *Markham Adver. Co. v. State*, 73 Wash.2d 405, 439 P.2d 248 (1969), *appeal dismissed for want of a substantial federal question*, 439 U.S. 808 (1978); *Markham Adver. Co., Inc. v. State*, Case No. 648, October Term, 1968, Appellants' Jurisdictional Statement, 1968 WL 129277 (October 14, 1968); *Suffolk Outdoor Adver. Co., Inc. v. Hulse*, 43 N.Y.2d 483, 372 N.E.2d 263 (1977), *appeal dismissed for want of a substantial federal question*, 439 U.S. 808 (1978); *Suffolk Outdoor Adver. Co., Inc. v. Hulse*, Case No. 77-1670, October Term, 1977, Appellant's Jurisdictional Statement (March 23, 1978); *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 509-510 (1981); *Members of the City Council of the City of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 806-807 (1984), *City of Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410, 425 and 442 (1993); *National Advertising Co. v. City and County of Denver*, 912 F.2d 405, 409 (10th Cir. 1990), and *Outdoor Systems, Inc. v. City of Lenexa*, 67 F. Supp. 2d 1231, 1239 (D. Kan. 1999)];

**WHEREAS**, the City of Opelika finds, determines and recognizes that on-site business signs are considered to be part of the business itself, as distinguished from off-site outdoor advertising signs, and that it is well-recognized that the unique nature of outdoor advertising and the nuisances fostered by billboard signs justify the separate classification of such structures for the purposes of governmental regulation and restrictions [see *E. B. Elliott Adv. Co. v. Metropolitan Dade Town*, 425 F.2d 1141, 1153 (5th Cir. 1970), *cert. denied*, 400 U.S. 805 (1970), quoting *United Advertising Corp. v. Borough of Raritan*, 11 N.J. 144, 93 A.2d 362, 365 (1952)];

**WHEREAS**, the City of Opelika finds and determines that a prohibition on the erection of off-site outdoor advertising signs will reduce the number of driver distractions and the number of aesthetic eyesores along the roadways and highways of the City [see, e.g., *E. B. Elliott Adv. Co. v. Metropolitan Dade County*, 425 F.2d 1141, 1154 (5th Cir. 1970), *cert. denied*, 400 U.S. 805 (1970)];

**WHEREAS**, the City of Opelika finds and determines that billboard signs are public nuisances given their adverse impact on both traffic safety and aesthetics;

**WHEREAS**, the City of Opelika finds and determines that billboards are a traffic hazard and impair the beauty of the surrounding area, and the prohibition of the construction of billboards will reduce these harms [see *Outdoor Systems, Inc. v. City of Lenexa*, 67 F. Supp. 2d 1231, 1239 (D. Kan. 1999)];

**WHEREAS**, the City of Opelika finds and determines that the presence of billboards along the federal interstate and the federal-aid primary highway systems has prevented public property in other jurisdictions from being used for beautification purposes due to view zones established by state administrative rule;

**WHEREAS**, the City of Opelika recognizes that Scenic America, Inc. recommends improvements in the scenic character of a community's landscape and appearance by prohibiting the construction of billboards, and by setting height, size and other standards for on-premise signs [see *Scenic America's Seven Principles for Scenic Conservation*, Principle #5];

**WHEREAS**, the City of Opelika finds and determines that in order to preserve, protect and promote the safety and general welfare of the residents of the City, it is necessary to regulate

off-site advertising signs, commonly known as billboard signs or billboards, so as to prohibit the construction of billboards in all zoning districts, and to provide that the foregoing provisions shall be severable;

**WHEREAS**, the City of Opelika finds and determines that the continued prohibition of billboards as set forth herein will improve the beauty of the City, foster overall improvement to the aesthetic and visual appearance of the City, preserve and open up areas for beautification on public property adjoining the public roadways, increase the visibility, readability and/or effectiveness of on-site signs by reducing and/or diminishing the visual clutter of off-site signs, enhance the City as an attractive place to live and/or work, reduce blighting influences, and improve traffic safety by reducing driver distractions;

**WHEREAS**, the City of Opelika wishes to assure that new billboards are effectively prohibited as a sign-type within the City, except under limited circumstances where there could be a significant reduction of existing billboards in trade of a new billboard;

**WHEREAS**, the City of Opelika has had a prohibition on offsite commercial signs, commonly known as billboards, dating back to the 1990s;

**WHEREAS**, the City of Opelika faced litigation in 2015 in a civil action styled *Rose City Outdoor, LLC v. City of Opelika, et al.*, Civil Action No. 43-CV-20JS-900437.00, in the Circuit Court of Lee County, Alabama (the "Lawsuit") challenging the City's sign regulations by an applicant that sought to erect eight digital billboards within the City limits, and as a result of the litigation threat the City entered into a settlement agreement that protected the City from the prospect of having to allow eight digital billboards in contravention of the health, safety and welfare goals of the City and agreed to allow for one digital billboard to be erected with the possibility of up to four more digital billboards to be erected over a period of three years at certain specific locations as more specifically set forth in a settlement dated October 17, 2015;

**WHEREAS**, subsequent to the claims made by Rose City Outdoor, LLC, the City of Opelika adopted moratoria beginning October 6, 2015 to provide time for the City to undertake a comprehensive review its sign regulations, including its permitting process, and to consider replacing the current Section IX of the Zoning Ordinance with a new Section IX, and to consider amendments to other provisions of the Zoning Ordinance that pertain to billboards;

**WHEREAS**, the City of Opelika finds and determines that anything beside the road which tends to distract the driver of a motor vehicle directly affects traffic safety, and signs, which divert the attention of the driver and occupants of motor vehicles from the highway to objects away from it, may reasonably be found to increase the danger of accidents, and agrees with the courts that have reached the same determination [*see In re Opinion of the Justices*, 103 N.H. 268, 169 A.2d 762 (1961); *Newman Signs, Inc. v. Hjelle*, 268 N.W.2d 741 (N.D.1978)];

**WHEREAS**, the City of Opelika acknowledges that the Seven Justices' views in *Metromedia*, as expressly recognized in the later Supreme Court decisions in *Taxpayers for Vincent* and *Discovery Network*,; and in more than a dozen published Circuit Court of Appeal decisions following *Metromedia*, on the permissible distinction between onsite signs and offsite signs-when it comes to government's substantial interest in prohibiting the latter sign type (the

offsite sign), including: *Major Media of the Southeast, Inc. v. City of Raleigh*, 792 F.2d 1269, 1272 (4th Cir. 1986); *Georgia Outdoor Advertising, Inc. v. City of Waynesville*, 833 F.2d 43, 45-46 (4th Cir. 1987); *Naegele Outdoor Adver., Inc. v. City of Durham*, 844 F.2d 172, 173-174 (4th Cir. 1988); *Nat'l Adver. Co. v. City and County of Denver*, 912 F.2d 405, 408-411 (10th Cir. 1990); *Nat'l Adver. Co. v. Town of Niagara*, 942 F.2d 145, 157-158 (2nd Cir. 1991); *Outdoor Systems, Inc. v. City of Mesa*, 997 F.2d 604, 610-612 (9th Cir. 1993); *Outdoor Graphics, Inc. v. City of Burlington, Iowa*, 103 F.3d 690, 695 (8th Cir. 1996); *Ackerley Communications of Northwest v. Krochalis*, 108 F.3d 1095, 1099 (9th Cir. 1997); *Southlake Property Associates, Ltd. v. City of Morrow, Ga.*, 112 F.3d 1114, 1117-1119 (11th Cir. 1997), *cert. denied*, 525 U.S. 820 (1998); *Bad Frog Brewery, Inc. v. New York State Liquor Authority*, 134 F.3d 87, 99 (2nd Cir. 1998); *Lavey v. City of Two Rivers*, 171 F.3d 1110, 1114-1115 (7th Cir. 1999); *Long Island Bd. of Realtors, Inc. v. Incorp. Village of Massapequa Park*, 277 F.3d 622, 627 (2nd Cir. 2002); *Clear Channel Outdoor, Inc. v. City of Los Angeles*, 340 F.3d 810, 814-816 (9th Cir. 2003); *Riel v. City of Bradford*, 485 F.3d 736, 753 (3rd Cir. 2007); *Naser Jewelers, Inc. v. City of Concord, N.H.*, 513 F.3d 27, 36 (1st Cir. 2008); and *RTM Media, L.L.C. v. City of Houston*, 584 F.3d 220, 225 (5th Cir. 2009);

**WHEREAS**, the City of Opelika recognizes that the distinction between the location of off-premises signs and on-premises signs is a time, place and manner regulation, and recognizes that in 1978 in *Suffolk Outdoor*, over the objection of Justices Blackmun and Powell, the U.S. Supreme Court denied review of the underlying decision for the want of a substantial federal question and that the denial on this basis was a decision on the merits, wherein the decisions was framed by the petitioner's jurisdictional statement which presented its first question as to whether a total ban on billboards within an entire municipality was constitutional, claiming that this disparate treatment of off-premises billboards from on-premises accessory signs was a violation of the First Amendment;

**WHEREAS**, the City of Opelika acknowledges that the significance of *Suffolk Outdoor* is that it was a merits decision that recognized that it is constitutionally permissible to distinguish between on-site signs and off-site signs (Billboards) for regulatory purposes, and to ban the latter, and that this merits decision has never been overturned;

**WHEREAS**, the City of Opelika finds and determines, consistent with the foregoing preambles, that the business of outdoor advertising should be a prohibited use in each of the City's zoning districts and in all of the City's zoning districts, subject to provisions pertaining to the continuance of existing nonconforming billboards and any vested rights secured through pre-existing settlement agreements and through any vested rights secured through exchanges authorized in the new Section IX designed to bring about the continued reduction in the number and placement of outdoor advertising signs in the City;

**WHEREAS**, the City of Opelika finds and determines that it is appropriate to prohibit discontinued signs and/or sign structures because the same visually degrade the community character and are inconsistent with the general principles and purposes of Section IX;

**WHEREAS**, the City of Opelika finds and determines that it is appropriate to specify that in addition to zoning regulations identified in Exhibit A to this proposed Ordinance, signs shall comply with all applicable building and electrical code requirements;

**WHEREAS**, the City of Opelika finds and determines that the City has allowed noncommercial speech to appear wherever commercial speech appears; and the City desires to continue that practice by including a specific substitution clause that expressly allows non-commercial messages to be substituted for commercial messages;

**WHEREAS**, the City of Opelika finds and determines that by confirming in its ordinance that noncommercial messages are allowed wherever commercial messages are permitted, the City will continue to overcome any constitutional objection that its ordinance impermissibly favors commercial speech over noncommercial speech [see *Outdoor Systems, Inc. v. City of Lenexa*, 67 F. Supp. 2d 1231, 1236-1237 (D. Kan. 1999)];

**WHEREAS**, the City of Opelika finds and determines that the federal district court in *Granite State Outdoor Advertising, Inc. v. City of Clearwater, Fla. (Granite-Clearwater)*, 213 F.Supp.2d 1312 (M.D.Fla. 2002), *aff'd in part and rev'd in part on other grounds*, 351 F.3d 1112 (11th Cir. 2003), *cert. denied*, 543 U.S. 813 (2004), cited the severability provisions of both Section 1-107 of the Code and the Development Code, Ord. No. 6348-99, § 4 (January 21, 1999), as a basis for severing isolated portions of Article 3 of the Land Development Code [see *Granite-Clearwater* at 1326, n.22];

**WHEREAS**, the City of Opelika finds and determines that in *Mitchell v. Mobile County*, 313 So.2d 172, 175 (Ala. 1975), the Alabama Supreme Court held that the presence of a severability clause is persuasive authority that the Legislature intends valid portions of legislative enactments to survive;

**WHEREAS**, the City of Opelika finds and determines that in *State ex rel. Pryor ex rel. Jeffers v. Martin*, 735 So.2d 1156 (Ala. 1999), the Alabama Supreme Court noted that "To be sure, '[t]he inclusion of a severability clause is a clear statement of legislative intent to that effect [striking the offending provision and leaving the remainder in place], but the absence of such a clause does not necessarily indicate the lack of such an intent or require a holding of inseverability.'" *Id.* at 1158 quoting *City of Birmingham v. Smith*, 507 So.2d 1312, 1315 (Ala. 1987).

**WHEREAS**, the City of Opelika finds and determines that the Zoning Ordinance's severability clause was adopted with the intent of upholding and sustaining as much of the City's regulations, including its sign regulations, as possible in the event that any portion thereof (including any section, sentence, clause or phrase) be held invalid or unconstitutional by any court of competent jurisdiction;

**WHEREAS**, the City of Opelika finds and determines that in *Newton v. City of Tuscaloosa*, 36 So.2d 487, 493 (Ala. 1948), the Alabama Supreme Court noted: "A criterion to ascertain whether or not a statute is severable so that by rejecting the bad the valid may remain intact is: 'The act 'ought not to be held wholly void unless the invalid portion is so important to the general plan and operation of the law in its entirety as reasonably to lead to the conclusion that it would not have been adopted if the legislature had perceived the invalidity of the part so held to be unconstitutional.'" See also *A. Bertolla & Sons v. State*, 24 So.2d 23, 25 (Ala. 1945); *Union Bank & Trust Co. v. Blan*, 155 So. 612 (Ala. 1934).

**WHEREAS**, the City of Opelika finds and determines that there have been several judicial decisions where courts have not given full effect to severability clauses that applied to sign regulations and where the courts have expressed uncertainty over whether the legislative body intended that severability would apply to certain factual situations despite the presumption that would ordinarily flow from the presence of a severability clause;

**WHEREAS**, the City of Opelika finds and determines that the failure of some courts to uphold severability clauses has led to an increase in litigation seeking to strike down sign ordinances in their *entirety* so as to argue that the developers' applications to erect prohibited sign types, such as billboards, must be granted;

**WHEREAS**, the City of Opelika finds and determines that the City has consistently adopted and enacted severability provisions in connection with its ordinance code provisions, and that the City of Opelika wishes to ensure that severability provisions apply to its zoning regulations, including its sign regulations;

**WHEREAS**, the City of Opelika finds and determines that there be an ample record of its intention that the presence of a severability clause in connection with the City's sign regulations be applied to the maximum extent possible, even if less speech would result from a determination that any exceptions, limitations, variances or other provisions are invalid or unconstitutional for any reason whatsoever;

**WHEREAS**, the City of Opelika finds and determines that the prohibition on billboards, as contained herein, continue in effect regardless of the invalidity or unconstitutionality of any, or even all, other provisions of the City's sign regulations, other ordinance code provisions, or other laws, for any reason(s) whatsoever;

**WHEREAS**, the City of Opelika finds and determines that there be an ample record that it intends that the height and size limitations on free-standing and other signs continue in effect regardless of the invalidity or unconstitutionality of any, or even all other, provisions of the City's sign regulations, other ordinance code provisions, or other laws, for any reason(s) whatsoever;

**WHEREAS**, the City of Opelika finds and determines that there be an ample record that it intends that each prohibited sign-type continue in effect regardless of the invalidity or unconstitutionality of any, or even all, other provisions of the City's sign regulations, other ordinance code provisions, or other laws, for any reason(s) whatsoever;

**WHEREAS**, the City of Opelika finds and determines that it is aware that there have been billboard developers who have mounted legal challenges to a sign ordinance, either in its entirety or as to some lesser portion, and argued that there existed a vested right to erect a billboard through the mere submission of one or more prior permit applications, so that in the event that the billboard developer is successful in obtaining a judicial decision that the entirety or some lesser portion of a sign ordinance or its permitting provisions are invalid or unconstitutional, the billboard developer might then seek to compel the local governmental unit to issue a permit to allow the billboard developer to erect a permanent billboard structure within the local government's jurisdiction; and

**WHEREAS**, the City of Opelika finds and determines that it desires to make clear that billboards are not a compatible land use within the City and that there can be no good faith reliance

by any prospective billboard developer under vested rights law in connection with the prospective erection or construction of new or additional billboards within the jurisdictional limits of the City;

**WHEREAS**, the City of Opelika finds and determines that it is appropriate to allow for the display of allowable temporary signage without any prior restraint or permit requirement;

**WHEREAS**, the City of Opelika finds and determines that it is appropriate to prohibit direct illumination of the surface of any temporary sign but such prohibition shall not be construed to constrain the general illumination of flags and flagpoles unless otherwise expressly prohibited;

**WHEREAS**, the City of Opelika finds and determines that when an application for a permanent sign is deemed denied that the applicant shall have an avenue to immediately request in writing via certified mail to the City a written explanation as to why the application was not approved and the City shall promptly respond in writing and provide the reason(s) the application was not approved [*see Covenant Media of South Carolina, LLC v. City of North Charleston*, 493 F.3d 421, 435-437 (4th Cir. 2007)];

**WHEREAS**, the City of Opelika finds and determines that an applicant for a permanent sign who is aggrieved by the decision of the director of planning and development upon a sign permit application, or aggrieved by any failure by the director of planning and development or by any other city official to act upon a sign permit application in accordance with the Zoning Ordinance, shall have the right to seek judicial review by the state circuit, or by any other court of competent jurisdiction, filed in accordance with the requirements of law, seeking such appropriate remedy as may be available;

**WHEREAS**, the City of Opelika finds and determines that there have been reported instances of persons claiming under oath to have submitted applications to local governments but with no record of those applications ever having been delivered or left with the local government for processing, followed by claims that the local government had then failed to act on the purported applications for an inordinate length of time and had thereby infringed upon the constitutional rights of the applicant;

**WHEREAS**, the City of Opelika finds and determines that local governments are vulnerable to schemes whereby false assertions are made as to the delivery or submission of sign permit applications when in fact such applications were never submitted or left with city officials and claims of unconstitutional failures to timely act upon the applications are then made so as to obtain permits that could otherwise not be granted;

**WHEREAS**, the City of Opelika finds and determines that the "deemed denial" of applications after the passage of a set amount of time after their purported submission dates protects local governments from schemes to obtain ineligible permits, and is a fair resolution when balanced by a right of the applicant to submit a request to the local government, via certified mail, for an explanation for lack of action on a purported application and for the reason(s) for the lack of approval so as to ensure that the local government has the opportunity to act on an application, if no application had initially been submitted or had been misplaced or lost;

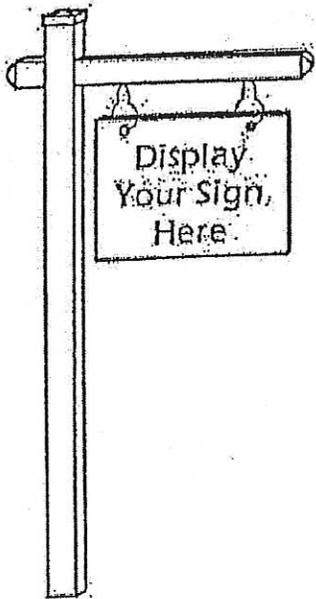
**WHEREAS**, the City of Opelika finds and determines that this opportunity for an applicant to make such request, via certified mail, provides an additional chance to secure an explanation of

the reason(s) for no approval within a defined and short period of time and also aids in the protection of the applicant's rights, especially when combined with access by the applicant to a judicial remedy for no response to such a request; and

**WHEREAS**, the City of Opelika finds and determines that an applicant shall have access to prompt judicial relief under the circumstances where an applicant's sign permit application is either denied, deemed denied or not approved in a timely manner, as set forth in the City's sign permitting regulations, and acknowledges that the display of temporary signs in compliance with the City's sign standards and regulations is not subject to any permitting whatsoever; and

**WHEREAS**, temporary signs with an intended use for a period of time related to an event would necessarily include events such as sales, rentals, and leases of real property, and therefore, real estate signs, such as for sale signs, for rent signs, for lease signs, and open house signs, will be considered temporary signs under the Zoning Ordinance; and

**WHEREAS**, traditional arm signs and two-post signs not primarily designed to be "free to swing because of the wind" shall not be considered "swing signs" within the definition of "swing signs" in Opelika's Zoning Ordinance (see image below for an example of what would not be considered as a sign primarily designed to be "free to swing because of the wind"); and



**WHEREAS**, the Zoning Ordinance at Section IX provides that any word, phrase or term not defined in the Zoning Ordinance shall have its commonly understood meaning, thereby allowing words like "event" to be used in context; so, for example, a temporary sign that is related to the sale or rental of property must be removed within seven (7) days after the property is sold or rented;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council ("City Council") of the City of Opelika, Alabama (the "City") as follows:

Section 1. **Adoption of recitals.** That the foregoing recitals and findings in the preambles and each of them, are hereby adopted and are hereby incorporated by reference as if set forth in full.

Section 2. **Amendment of Section VII of the Zoning Ordinance.** Section VII, "DISTRICT REGULATIONS", of Section 7.3B, Uses, of Ordinance No. 124-91 entitled "Zoning Ordinance of the City of Opelika, Alabama", adopted on September 17, 1991, as amended (hereinafter referred to as "Zoning Ordinance" or "Zoning Code") shall be revised so that the matrix for the list of Use Categories includes "Outdoor Advertising" as a use category that is not allowed in any of the Districts that are shown therein for RESIDENTIAL and COMMERCIAL, with the additional asterisks and the text that follows referring to Section VIII at Section 8.26:

**"7.3 .B USES ALLOWED**

**USES DISTRICTS**

C. USE CATEGORIES															
USES	DISTRICTS														
RESIDENTIAL	R-1	R-1A	R-2	R-3	R-4	R-4M	R-5	R-5M	C-1	C-2	C-3	M-1	M-2	I-1	GC
Outdoor Advertising*	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
COMMERCIAL	R-1	R-1A	R-2	R-3	R-4	R-4M	R-5	R-5M	C-1	C-2	C-3	M-1	M-2	I-1	GC
Outdoor Advertising*	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N

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

Section 3. **Amendment of Section VIII of the Zoning Ordinance.** Section VIII, "GENERAL REGULATIONS", of the Zoning Ordinance is hereby be amended by adding a new subsection to be numbered Section 8.26, which said subsection shall read as follows:

**"SECTION 8.26 OUTDOOR ADVERTISING**

Except as set forth below, the business of outdoor advertising is a prohibited use in all zoning districts of the City. The only exceptions for outdoor advertising being a prohibited use are as follows:

A. Where there is an existing and lawful outdoor advertising structure on a parcel of land in any zoning district in the City as of January 1, 2016 on which the business of outdoor advertising is being conducted, the business of outdoor advertising may continue to be conducted on that billboard structure for so long as (a) the billboard

structure has not been removed and remains in its present condition without any alterations or enhancements, and (b) the billboard has not been substantially destroyed by an Act of God. If the billboard structure is removed for any reason, or if the billboard structure has been unlawfully altered or enhanced, or if the billboard structure has been substantially destroyed by an Act of God, then and in that event the business of outdoor advertising will no longer be a lawful use on the parcel where the billboard structure is or had been located.

B. Where there is vested right as of January 1, 2016 for an outdoor advertising company to erect in the future a billboard structure or to alter or enhance an existing billboard structure to conduct the business of outdoor advertising, then and in that event the business of outdoor advertising shall not be deemed a prohibited use on any such a billboard structure. This exception is limited to such vested rights as were created through the City's approval of a settlement agreement approved prior to December 31, 2015, wherein certain claims were thereupon settled involving the potential placement of billboard structures in the future within the City's limits. However, this exception to the business of outdoor advertising being a prohibited use on a parcel with any such billboard structure in the future may continue only for so long as (a) the billboard structure is not subsequently removed and is not altered or enhanced, and (b) the billboard structure has not been substantially destroyed by an Act of God. If the billboard structure is later removed for any reason, or if the billboard structure is unlawfully altered or enhanced, or if the billboard structure is substantially destroyed by an Act of God, then and in that event the business of outdoor advertising will no longer be a lawful use on the parcel where the billboard structure has been located."

**Section 4. Replacement of Section IX of the Zoning Ordinance; adoption of new sign regulations.** Current Section IX "SIGN REGULATIONS", of the Zoning Ordinance is hereby deleted in its entirety and replaced with new Section IX, "SIGN REGULATIONS", consisting of subsections 9.1 through 9.15, including a Schedule "A", as provided and set forth in EXHIBIT "A" attached hereto, which said EXHIBIT "A" is incorporated herein by reference as if set forth verbatim herein.

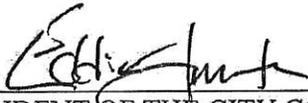
**Section 5. Repeal of conflicting ordinances.** Any ordinance or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

**Section 6. Effective date.** This Ordinance shall take effect and be enforced immediately upon its adoption and publication as required by law.

**Section 7. Publication.** The City Clerk is directed to publish a synopsis of this Ordinance in a newspaper of general circulation published in the City of Opelika, Lee County, Alabama pursuant to Section 11-45-8(b)(2), Code of Alabama, (1975) as amended.

**Section 8. Codification.** Codification of this Ordinance in the Zoning Ordinance of the City of Opelika, Alabama, is hereby authorized and directed.

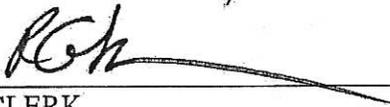
ADOPTED AND APPROVED this the 17<sup>th</sup> day of MAY, 2016.

  
PRESIDENT OF THE CITY COUNCIL OF THE  
CITY OF OPELIKA, ALABAMA

ATTEST:

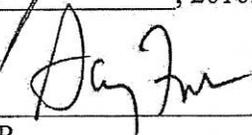
  
CITY CLERK

TRANSMITTED TO MAYOR on this the 18<sup>th</sup> day of May, 2016.

  
CITY CLERK

ACTION BY MAYOR

APPROVED this the 18<sup>th</sup> day of May, 2016.

  
MAYOR

ATTEST:

  
CITY CLERK

## EXHIBIT "A"

### SECTION IX

#### SIGN REGULATIONS

- 9.1. Purpose, Intent and Scope.
- 9.2. Definitions.
- 9.3. Applicability.
- 9.4. Prohibited Signs.
- 9.5. General Provisions for Signs.
  - (1) Measurement of Sign Size (Sign Area).
  - (2) Measurement of Sign Height of a Freestanding Sign.
  - (3) Sign Illumination for Temporary and Permanent Signs.
  - (4) Viewpoint Neutrality.
  - (5) Substitution of Noncommercial Speech for Commercial Speech.
  - (6) Consent of Legal Owner of Property.
  - (7) Signs on Public Property.
  - (8) Signs That Obstruct Means of Egress.
  - (9) Signs That Interfere with Ventilation Openings.
  - (10) Signs Must Maintain Clearance from Utilities and Shall Not Interfere with Surface and Underground Water or with Drainage.
  - (11) Signs Shall Not Be Attached to Certain Property and Shall Not Impair Roof Access.
  - (12) Signs Declared a Nuisance and Repair; Signs Presenting Immediate Peril to Public Health or Safety.
  - (13) Street Address Signs.
  - (14) Ingress and Egress Signs.
  - (15) Flagpoles and Flags; Flag Brackets, Flag Stanchions and Flags.
  - (16) Noncommercial Onsite Parking Space Signs.
  - (17) Signs at Convenience Store with Fuel Islands.
  - (18) Freestanding Signs.
  - (19) Wall Signs.
  - (20) Drive-Through Lane Signs.
  - (21) Umbrella Signs.
  - (22) Awning Signs.
  - (23) Canopy Signs.
  - (24) Changeable Copy Signs.
  - (25) Projecting Signs.
  - (26) Window Signs.
  - (27) Door Signs.
- 9.6. Temporary and Permanent Signs Allowed in Zoning Districts.
- 9.7. Allowed Temporary Signs in Zoning Districts.
- 9.8. Allowed Permanent Signs in Zoning Districts.

- (1) Rural Zoning District, Residential Transition Zoning District, Low Density Residential Zoning District, Medium Density Residential Zoning District, and Village Residential Zoning District (R-1, R-1A, R-2, R-3, and VR).
- (2) High Density Zoning Districts and Multi-Family Residential Zoning Districts (R-4, R-5, RM-4 and RM-5).
- (3) Downtown Commercial Zoning District, Office/Retail Zoning District, General Commercial Zoning District, and Village Commercial Zoning District (C-1, C-2, C-3 and VC).
- (4) Industrial Zoning Districts (M-1 and M-2).
- (5) Institutional Zoning District (I-1).
- (6) Airport Zoning District (AP).
- (7) Planned Residential Development Zoning District (PRD).
- (8) Planned Unit Development Zoning District (PUD).
- (9) Retail/Entertainment Zoning District (R/E).
- (10) Floodplain Overlay District (FP).
- (11) Gateway Corridor Overlay Districts (GC).
- (12) Hospitality Overlay District (HOD).

9.9. Building Permits.

9.10. Sign Permits.

9.11. Nonconforming Signs.

9.12. Miscellaneous Provisions.

9.13. Violations; Penalties.

9.14. Removal of Unlawful and Dangerous Signs.

9.15. Severability.

Schedule A.

### **Section 9.1. Purpose, Intent and Scope.**

It is the purpose of this section to promote the public health, safety and general welfare of the general public through reasonable, consistent and non-discriminatory sign regulations for the erection, placement and maintenance of signs. The sign regulations in this section are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of signs. The sign regulations are especially intended to address the secondary effects that may adversely impact aesthetics and safety. The sign regulations are designed to serve substantial governmental interests and, in some cases, compelling governmental interests such as traffic safety and warning signs of threats to bodily injury or death.

This section regulates signs, as defined in this section, which are placed on private property or on property owned by public agencies including the City and over which the City has zoning authority. This section is not intended to extend its regulatory regime to objects that are not traditionally considered signs for purpose of government regulation. The City is a community that cherishes and preserves its rich heritage, while at the same time embracing all of the visions and opportunities for a bright future for its residents and businesses. In order to preserve and promote the city as a desirable community in which to live and do business, a pleasing, visually attractive environment is of foremost importance. The regulation of signs within the City is a highly contributive means by which to achieve this desired end.

These sign regulations have been prepared with the intent of enhancing the visual environment of the City and promoting its continued well-being, and are intended to:

- (1) Encourage the effective use of signs as a means of communication in the City;
- (2) Maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth;
- (3) Safeguard and promote the aesthetic quality of the City by establishment of reasonable standards for the number, size, height, spacing, placement and illumination of such signs in the interest of public safety and the general welfare;
- (4) Improve pedestrian and traffic safety;
- (5) Minimize the possible adverse effect of signs on nearby public and private property;
- (6) Foster the integration of signage with architectural and landscape designs;
- (7) Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of signs which compete for the attention of pedestrian and vehicular traffic;
- (8) Allow signs that are compatible with their surroundings and aid orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs;
- (9) Encourage and allow signs that are appropriate to the zoning district in which they are located;
- (10) Establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains;
- (11) Preclude signs from conflicting with the principal permitted use of the site and adjoining sites;
- (12) Regulate signs in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians;
- (13) Except to the extent expressly preempted by state or federal law, ensure that signs are constructed, installed and maintained in a safe and satisfactory manner, and protect the public from unsafe signs;
- (14) Preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all districts of the City;
- (15) Allow for traffic control devices consistent with national and state standards and whose purpose is to promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and that notify road users of regulations and provide warning

and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream;

(16) Protect property values by precluding, to the maximum extent possible, sign types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;

(17) Protect property values by ensuring that sign types, as well as the number of signs, are in harmony with buildings, neighborhoods, and conforming signs in the area;

(18) Regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the City and that complements the natural surroundings in recognition of this City's reliance on its natural surroundings and beautification efforts in retaining economic advantage for its community, as well as for its major subdivisions, shopping centers and industrial parks;

(19) Enable the fair and consistent enforcement of these sign regulations;

(20) Promote the use of signs that positively contribute to the aesthetics of the community, are appropriate in scale to the surrounding buildings and landscape, and advance the City's goals of quality development;

(21) Provide standards regarding the non-communicative aspects of signs, which are consistent with city, county, state and federal law;

(22) Provide flexibility and encourage variety in signage, and create an incentive to relate signage to the basic principles of good design; and

(23) Assure that the benefits derived from the expenditure of public funds for the improvement and beautification of streets, sidewalks, public parks, public rights-of-way, and other public places and spaces, are protected by exercising reasonable controls over the physical characteristics and structural design of signs.

## **Section 9.2. Definitions.**

The words, phrases and terms used in this Section IX shall have the meanings herein ascribed to them. Words and phrases not defined in this Section IX but defined elsewhere in the Zoning Ordinance shall be given the meanings therein ascribed to them. Any word, phrase or term not defined in this Zoning Ordinance shall have its commonly understood meaning.

**Advertising.** Any commercial sign copy intended to aid, directly or indirectly, in the sale, use or promotion of a product, commodity, service, sales event, activity, entertainment, real property, or personal property.

**Architectural Detail or Embellishment.** Any projection, relief, change of material, window or door opening, exterior lighting, inlay, or other exterior building features not specifically classified as a sign. The term includes, but is not limited to, relief or inlay features or patterns that distinguish

window or door openings, exterior lighting that frames building features, and changes in façade materials to create an architectural effect.

**Artwork.** A two- or three-dimensional representation of a creative idea expressed in an art form but does not convey the name of the business or a commercial message. If displayed as a two-dimensional representation on a flat surface, the same shall not exceed one-quarter (1/4) of the total surface area; however, if displayed on a flat surface oriented to a federal-aid primary highway, the same shall not exceed one-half (1/2) of the total surface area. All outdoor artwork shall conform to the maximum height restrictions in any particular zone in which it is located. All outdoor artwork shall also conform to any applicable building code and safety standards.

**Awning.** Any secondary covering attached to the exterior wall of a building. It is typically composed of canvas woven of acrylic, metal, cotton or polyester yarn, or vinyl laminated to polyester fabric that is stretched tightly over a light structure of aluminum, iron or steel, or wood.

**Billboard.** An advertising sign or other commercial sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed.

**Building Code.** The International Building Code, any amendments thereto, and any successor code adopted by the City.

**Building Permit.** A permit required by the applicable building code for the construction of a sign or the addition to or modification of a sign structure.

**Business of Outdoor Advertising.** The business of building outdoor advertising signs or structures or receiving income from the sale or lease of outdoor advertising signs or the sale, lease or rental of advertising space on such signs.

**Canopy.** An overhead roof or structure that is able to provide shade or shelter. It is typically ground supported or supported by metal frame.

**Characters.** Symbols, marks, logos, or inscriptions.

**City.** The City of Opelika.

**City Council.** The City Council of the City of Opelika, Alabama.

**Code of Ordinances.** The Code of Ordinances, City of Opelika, Alabama, also known as the Opelika City Code.

**Color.** Any distinct tint, hue or shade including white, black or gray.

**Commercial message.** Any sign wording, copy, logo, or other representation or image that directly or indirectly names, advertises, or calls attention to a product, commodity, service, sale, or sales event, activity, entertainment or other commercial activity.

**Master Plan.** The Opelika Master Plan 2030 and any successor master plan upon adoption.

**Copy.** The linguistic or graphic content of a sign.

**Decoration.** Any decoration visible from a public area that does not include lettering or text and is not displayed for commercial advertising.

**Director of Planning; Director.** The planning director or the director's designee.

**Egress.** An exit.

**Erect.** To construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any way bring into being or establish: but it does not include any of the foregoing activities when performed as an incident to the change of message or customary maintenance or repair of a sign.

**Façade.** The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

**Fence.** An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

**Flag.** A temporary sign consisting of a piece of cloth, fabric or other non-rigid material.

**Flagpole.** A pole on which to raise a flag.

**Frontage, Building.** The maximum width of a building measured in a straight line parallel with the abutting street, public parking lot, or pedestrian walkway.

**Frontage, Lot.** The horizontal distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way. All sides of a lot that abut a street shall be considered lot frontage.

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

**Ingress.** An access or entry.

**Intermittent.** More frequently than once per day.

**Lot.** A parcel, tract, or area of land of varying size established by plat, subdivision, or as otherwise permitted by law, which is designated as a single unit which is intended to be occupied by one building, or group of buildings, and its accessory uses. *See also Lot, Corner* Section 2.2.

**Maintenance.** In the context of this Section IX, means the repairing or repainting of a portion of a sign or sign structure, periodically changing changeable copy, or renewing copy, which has been made unusable by ordinary wear.

**Marquee.** Any permanent wall or roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed as part of the principal structure to provide protection from the weather. A marquee is not an awning or canopy.

**Monopole.** A vertical self-supporting structure, not guyed, made of spin-cast concrete, concrete, steel or similar material, presenting a solid appearance.

**Neighborhood Shopping Center.** A commercial development site containing more than one commercial building with an aggregate of 39,000 to 64,999 square feet of gross building area.

**Non-commercial message.** Any message which is not a commercial message.

**Nonconforming building or structure.** Any building or other structure which was lawfully constructed but which does not comply with all applicable provisions of the Zoning Ordinance, including size and dimensional standards, off-street parking standards, landscape standards, performance standards, or height standards either on the effective date of the Zoning Ordinance or as a result of any subsequent amendment. Such noncomplying building or structure shall be referred to as a nonconformity.

**Offsite Commercial Advertising.** A non-accessory billboard or sign which directs attention to a business, commodity, service, entertainment, or attraction that is sold, offered or existing elsewhere than upon the same lot where such sign is displayed.

**Owner.** Any part or joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety with legal or beneficial title to whole or part of a building or land.

**Nonconforming use.** Any use of a building or structure which, at the time of the commencement of the use, was a permitted use in the zoning district until the effective date of the Zoning Ordinance, but which does not, on the effective date of the Zoning Ordinance or amendment thereto, conform to any one of the current permitted uses of the zoning district in which it is located. Such nonconforming use may be referred to as a nonconformity.

**Parcel of land.** Any quantity of land and water capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

**Parking lot.** An off-street, ground level area or plot of land used for the storage or parking of vehicles.

**Parking space.** A space for the parking of a motor vehicle within a public or private parking area.

**Pennant.** Any lightweight plastic, fabric, or other material whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, which will flutter or swing in the wind.

**Person.** Any person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer or any other entity whatsoever or any combination of such, jointly or severally.

**Planning Director.** The person appointed to direct the Planning Department of the City of Opelika, Alabama.

**Planning Commission.** The City of Opelika Planning Commission.

**Right-of-Way.** The area of a highway, road, street, way, parkway, electric transmission line, gas pipeline, water main, storm or sanitary sewer main, or other such strip of land reserved for public use, whether established by prescription, easement, dedication, gift, purchase, eminent domain or any other legal means.

**Sign.** Any device, fixture, placard or structure, including its component parts, which draws attention to an object, product, place, activity, opinion, person, institution, organization, or place of business, or which identifies or promotes the interests of any person and which is to be viewed from any public street, road, highway, right-of-way or parking area (collectively referred to as a "public area"). For the purposes of these regulations, the term "sign" shall include all structural members. A sign shall be construed to be a display surface or device containing organized and related elements composed to form a single unit. In cases where matter is displayed in a random or unconnected manner without organized relationship of the components, each such component shall be considered to be a single sign. The term "*sign*" for regulatory purposes shall not include the following objects: Grave yard and cemetery markers visible from a public area, vending machines or express mail drop-off boxes visible from a public area, decorations that do not constitute advertising visible from a public area, artwork that does not constitute advertising or a building's architectural features visible from a public area, or a manufacturer's or seller's markings on machinery or equipment visible from a public area. The foregoing objects are not *signs* for purpose of regulation herein.

**Sign, A-Frame.** A portable sign utilizing an upright, rigid supporting frame in the form of a triangle or an inverted "V" style of framing to support the sign.

**Sign, Abandoned.** A sign that is not operated or maintained for a period of one hundred eighty (180) calendar days or longer. The following conditions shall be considered as the failure to operate or maintain a sign: (1) the sign displays advertising for a product or service which is no longer available, (2) the sign displays advertising for a business which is no longer licensed, or (3) the sign is blank. An *abandoned sign* includes a sign on which is advertised a business that no longer has a certificate of occupancy or that is no longer doing business on the parcel where the sign is located. An *abandoned sign* includes a sign for a purpose for which the purpose has lapsed. If the abandoned sign is on a freestanding sign structure conforming with the city's Zoning Ordinance and in compliance with the current Building Code, then only the sign face shall be considered abandoned and only the sign face shall be removed. Any replacement sign face must comply with the City's Zoning Ordinance. However, if the abandoned sign is on a freestanding sign structure that is nonconforming with the City's Zoning Ordinance, then both the sign face and the sign structure shall be removed.

**Sign, Attached.** Any sign attached to, on, or supported by any part of a building (e.g., walls, awning, windows, or canopy), which encloses or covers useable space.

**Sign, Awning.** Any sign that is a part of or printed, stamped, stitched or otherwise applied onto a protective awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

**Sign, Bandit.** *See also Sign, Snipe.*

**Sign, Banner.** A temporary sign made of wind and weather resistant cloth or other lightweight material, intended to hang either with or without frames or in some other manner as not to be wind activated, and possessing characters, letters, illustrations, or ornamentations applied to paper, plastic or fabric of any kind. Flags shall not be considered banners for the purpose of this definition.

**Sign, Beacon.** A stationary or revolving light which flashes or projects illumination, single color or multicolored, in any manner which has the effect of attracting or diverting attention, except, however, this term does not include any kind of lighting device which is required or necessary under the safety regulations of the Federal Aviation Administration or other similar governmental agency. This definition does not apply to any similar type of lighting device contained entirely within a structure and which does not project light to the exterior of the structure.

**Sign, Billboard.** *See also Billboard.*

**Sign, Blinking.** A sign or any portion of a sign, whose illumination is characterized by a repetitive cycle that changes at a frequency of eight (8) seconds or less.

**Sign, Cabinet.** A sign that contains all the text and/or logo symbols within a single enclosed cabinet and may or may not be illuminated.

**Sign, Canopy.** A sign affixed to a canopy, awning, eave, cantilever story of extended roof of a building. *See also Sign, Awning.*

**Sign, Changeable Copy.** A sign with the capability of content change by means of manual or remote input, including the following types:

(1) Manually activated. Changeable sign whose message copy can be changed manually on a display surface.

(2) Electronically activated. Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices, or may be from an external light source designed to reflect off of the changeable component display. *See also Sign, Electronic Message.*

Note: In connection with a Changeable Copy Sign, there is no vested right to any frequency in the changeable copy or in the brightness level of any light source.

**Sign, Discontinued.** A sign that is not operated or maintained for a period of one hundred eighty (180) calendar days or longer, and the intent of the owner of the sign shall not be a consideration in whether or not the sign is a discontinued sign. The following conditions shall be conclusively considered as the failure to operate or maintain a sign: (1) a sign displays advertising for a product or service which is no longer available, or (2) a sign displays advertising for a business which is no longer licensed, or (3) the sign is blank. A discontinued sign includes a sign advertising a business that no longer has a certificate of occupancy or that no longer does business at the location at which the sign is located. A discontinued sign includes a sign for a purpose for which the purpose has lapsed. If the discontinued sign is on a freestanding sign structure that is conforming with the city's Zoning Ordinance and in compliance with the applicable Building Code, then only the sign face will be considered discontinued; however, if the discontinued sign is on a freestanding sign structure that is either nonconforming with the city's Zoning Ordinance or out of compliance with the applicable Building Code, then freestanding sign structure shall be removed.

**Sign, Display Area.** The maximum area of a sign or advertising device that may be seen from one (1) location, that can be enclosed or measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire sign or advertising device; excluding trim, frame, apron, posts, uprights, braces or other structural members, which support it.

**Sign, Double-Faced.** A sign which has two display surfaces backed against the same background, one face of which is designed to be seen from one direction and the other from the opposite direction, every point on which face being either in contact with the other face or in contact with the same background.

**Sign, Drive-Through Lane.** A sign oriented to vehicles utilizing a drive-through lane at an establishment.

**Sign, Electronic Message.** An electronically activated changeable copy sign whose variable message capability can be electronically programmed. Note: In connection with an Electronic Message Sign, there is no vested right to any frequency in the changeable copy or in the brightness level of any light source.

**Sign, Elevated.** A general business sign that is freestanding and placed on top or affixed to structural supports, including poles, posts, uprights and braces, and which provides a minimum eight (8) feet of clearance between the lowest edge of the sign and the surface of the ground, parking, lots, streets or alley directly beneath it.

**Sign, Feather.** A sign extending in a sleeve-like fashion down a telescoping or fixed pole that is mounted in the ground or on a building or stand. A feather sign or flutter sign is usually shaped like a sail or feather, and attached to the pole support on one vertical side.

**Sign, Flutter.** *See also Sign, Feather.*

**Sign, Fixed Aerial Advertising.** An aerial advertising medium tethered to, or controlled from, the ground.

**Sign, Flashing.** Any illuminated sign, on which the artificial source of light is not maintained stationary or constant in intensity and color at all times when such sign is illuminated; a sign that contains an intermittent flashing light source, or which includes the illusion of intermittent or flashing- light, or in which any part of the light source varies in intensity and/or hue, or in which a message constantly flashes on and off, or alternates with other copy. For the purposes of this definition, any moving illuminated sign affected by intermittent lighting shall be deemed a flashing sign. *See also Sign, Blinking.*

**Sign, Freestanding.** A ground sign, elevated sign or any other sign independent of a building or any other structure, supported wholly by uprights, braces or posts in or upon the ground, which support structures shall be considered as part of the sign, except they shall not be included in computing the sign display area. A free-standing (ground) sign may be a pole sign or a monument sign.

**Sign, Government.** Any temporary or permanent sign erected by or on the order of a public official or quasi-public entity at the federal, state or local government level in the performance of any duty including, but not limited to, noncommercial signs identifying a government building or service, traffic control signs, street name signs, street address signs, warning signs, safety signs, informational signs, traffic or other directional signs, public notices of events, public notice of government actions, proposed changes of land use, any proposed rezoning, or any other government speech.

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

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

**Sign, Holographic Display.** An advertising display that creates a three-dimensional image through projection, OLED (organic light emitting diode), or any similar technology.

**Sign, Illuminated.** Any sign or portion thereof which is illuminated by artificial light, either from an interior or exterior source, including outline, reflective or phosphorescent light (including but not limited to plasma or laser), whether or not the source of light is directly affixed as part of the sign, and shall also include signs with reflectors that depend upon sunlight or automobile headlights for an image.

**Sign, Indirectly illuminated.** Any sign, the facing of which reflects light from a source intentionally directed upon it.

**Sign, Inflatable or Balloon.** A sign consisting of a flexible envelope of nonporous materials that gains its shape from inserted air or other gas.

**Sign, Ingress and Egress.** A sign at the entrance to or exit from a parcel necessary to provide directions for vehicular traffic or provide a warning for pedestrian and/or vehicular traffic safety.

**Sign, Internally Illuminated.** Any sign which has a source of light not visible to the eye and entirely enclosed within the sign.

**Sign, Marquee.** A sign affixed or inherent with the structure of metal, glass, canvas or other material projecting over and from points of ingress or egress of a building or other structure in nonresidential use.

**Sign, Monument.** A type of freestanding sign that is not supported by a pole structure and is placed upon the ground independent of support from the face of a building and that is constructed of a solid material such as wood, masonry or high-density urethane. A monument sign is not a pole sign.

**Sign, Moving.** Any sign in which the sign itself or any portion of it physically moves or revolves.

**Sign, Multi-prism.** A sign made with a series of multiple sections that rotate and stop, or index, to show multiple images or messages in the same area at different times.

**Sign, Nonconforming.** Any sign that was validly installed under laws or ordinances in effect prior to the effective date of the Zoning Ordinance or subsequent amendments, but which is in conflict with the provisions of the current Zoning Ordinance.

**Sign, Offsite Commercial.** A non-accessory billboard or a sign that displays offsite commercial advertising. In contrast, the term *On-site sign* means any commercial sign which directs attention to a commercial or industrial occupancy, establishment, commodity, good, product, service or other commercial or industrial activity conducted, sold or offered upon the site where the sign is maintained. The on-site/off-site distinction applies only to commercial message signs. For purposes of the Zoning Ordinance, all signs with noncommercial speech messages shall be deemed to be "on-site," regardless of location.

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

**Sign, Painted Wall.** Any sign painted on any surface or roof of any building.

**Sign, Permanent.** Any sign which is intended to be and is so constructed as to be of lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear and tear) and position and in a permanent manner affixed to the ground, wall or building. Unless otherwise provided for herein, a sign other than a temporary sign shall be deemed a permanent sign unless otherwise indicated elsewhere in the Zoning Ordinance.

**Sign, Permanent Door.** Any sign visible from the exterior of a building or structure which is painted, attached, glued, or otherwise affixed to a door.

**Sign, Permanent Window.** Any sign visible from the exterior of a building or structure which is painted, attached, glued, or otherwise affixed to a window.

**Sign, Pole.** A type of ground sign that is supported by one or more poles and otherwise separated from the ground by air. A pole sign is not a monument sign.

**Sign, Portable.** Any sign, banner, or poster that is not permanently attached to the ground or to a structure that is attached to the ground or a sign capable of being transported, including, but not limited to, signs designed to be transported by means of wheels or carried by a person. For purposes of this division, a cold air inflatable sign shall be considered to be a portable sign.

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

**Sign, Reader Board.** A freestanding, projecting, wall, roof, or ground sign in the form of a structure or framework on which copy is posted in the form of removable letters or posters.

**Sign, Revolving.** *See Sign, Rotating.*

**Sign, Roof.** Any sign which is mounted on the roof of a building or which extends above the top edge of the wall of a flat roofed building, the eave line of a building with a hip, gambrel, or gable roof.

**Sign, Rotating.** A sign that rotates, revolves or turns or has external sign elements that rotate, revolve or turn. Such sign may be power-driven or propelled by the force of wind or air.

**Sign, Safety.** *See Sign, Warning.*

**Sign, Scrolling.** A sign that by mechanical or electronic means displays a message that moves up, down or across a display screen or surface.

**Sign, Service Island.** A sign mounted permanently on or under a service island canopy.

**Sign, Snipe.** A sign made of any material when such sign is tacked, nailed, posted, pasted, glued or otherwise attached to or placed on public property such as but not limited to a public utility pole, a public street sign, a public utility box, a public fire hydrant, a public right-of way, public street furniture, or other public property; except for A-frame and T-frame signs that are temporarily placed on public property under such limitations and constraints as may be set forth in the Zoning Ordinance.

**Sign, Statutory.** A sign the city is required to erect by any statute of the State of Alabama or the United States for safety, directional, or traffic control purposes.

**Sign, Street Address.** Any sign denoting the street address of the premises on which it is attached or located.

**Sign, Swinging.** A sign which, because of its design, construction, suspension, or attachment, is free to swing or move noticeably because of the wind.

**Sign, T-Frame.** A portable sign utilizing an upright, rigid supporting frame in the form of an inverted "T" style of framing to support the sign.

**Sign, Temporary.** A sign intended for a use not permanent in nature. Unless otherwise provided for in this Zoning Ordinance, a sign with an intended use for a period of time related to an event shall be deemed a temporary sign. A flag shall be deemed a temporary sign.

**Sign, Traffic Control Device.** Any government sign located within the right-of-way that is used as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard. A traffic control device sign includes those government signs that are classified and defined by their function as regulatory signs (that give notice of traffic laws or regulations), warning signs (that give notice of a situation that might not readily be apparent), and guide signs (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information).

**Sign, Tri-vision.** A sign made with a series of triangular sections that rotate and stop, or index, to show multiple images or messages in the same area at different times.

**Sign, Twirling.** Any sign that is twirled or otherwise spun or whirled to attract attention from motorists or drivers of vehicles on public roads and highways.

**Sign, Umbrella.** A sign printed on umbrellas used for legal outdoor seating area at a business establishment, which is made of a lightweight fabric or similar material.

**Sign, Unsafe.** A sign posing an immediate peril or reasonably foreseeable threat of injury or damage to persons or property.

**Sign, Vehicle.** A sign which covers more than twenty (20) square feet of the vehicle, which identifies a business, products, or services, and which is attached to, mounted, pasted, painted, or drawn on a motorized or drawn vehicle, and is parked and visible from the public right-of-way; unless said vehicle is used for transporting people or materials in the normal day to day operation of the business.

**Sign, Prohibited Vehicle; Signs, Prohibited Vehicle.** A total sign area in excess of twenty (20) square feet on any vehicle, and

- a. The vehicle is not "regularly used in the conduct of the business," and
- b. The vehicle is visible from a street right-of-way within fifty (50) feet of the vehicle, and
- c. The vehicle is parked for more than two (2) consecutive hours in any twenty-four (24) hour period within fifty (50) feet of any street right-of-way, and
- d. A vehicle shall not be considered "regularly used in the conduct of the business" if the vehicle is used primarily for advertising, and
- e. This provision is not to be construed as prohibiting the identification of a firm or its principal products on a vehicle operating during the normal hours of business; and which is currently licensed, insured and operable; provided, however, that no

such vehicle shall be parked on public or private property with signs attached or placed on such vehicle primarily for the purpose of advertising a business establishment or firm or calling attention to the location of a business establishment or firm.

**Sign, Wall.** Any sign attached and parallel to but not painted directly on, a wall or similar architectural element that is an integral part of a building, and which extends not more than twelve (12) inches from the wall to which it is attached.

**Sign, Wall Wrap.** A sign composed of fabric, plastic, vinyl, Mylar or a similar pliable material that drapes or hangs over the side of a building, wall or window.

**Sign, Warning.** A sign which provides warning of a dangerous condition or situation that might not be readily apparent or that poses a threat of serious injury (e.g., gas line, high voltage, condemned building, etc.) or that provides warning of a violation of law (e.g., no trespassing, no hunting allowed, etc.).

**Sign, Window.** Any sign painted on, attached to or displayed in a window so as to direct attention of persons outside the building to a product or activity on the premises.

**Sign Area.** The square foot area within a continuous perimeter enclosing the extreme limits of the sign display, including any frame or border. Curved, spherical, or any other shaped sign face shall be computed on the basis of the actual surface area. In the case of painted wall signs composed of letters, shapes, or figures, or skeleton letters mounted without a border, the sign area shall be the area of the smallest rectangle or other geometric figure that would enclose all of the letters, shapes and figures. The calculation for a double-faced sign shall be the area of one face only. Double-faced signs shall be so constructed that the perimeter of both faces coincide and are parallel and not more than twenty-four (24) inches apart.

**Sign Height.** The vertical distance from the average finished grade of the ground below the sign excluding any filling, berming, mounding or excavating solely for the purposes of increasing the height of the sign, to the top edge of the highest portion of the sign. The base or structure erected to support or adorn a monument, pole or other freestanding sign is measured as part of the sign height.

**Sign Size.** See Sign Area.

**Sign Visibility Triangle.** An isosceles triangle with two (2) twenty-five (25) foot sides extending from the street corner along the curbs, or if no curbs along the edge of pavement of the street.

**Street.** A right-of-way for vehicular traffic, designated as an alley, avenue, boulevard, court, drive, expressway, highway, lane, road, street, or thoroughfare (also referred to as roadway). A street may be dedicated to the public or maintained in private ownership, but open to the public.

**Strip Shopping Center.** A group of commercial-retail establishments planned, developed, owned or managed as a unit with off-street parking provided on the property, with an aggregate of 15,000 to 29,999 square feet of gross building area.

**Structure.** Anything constructed, installed or portable, the use of which requires location on land.

**Subdivision.** The division of land into three (3) or more parcels for the purpose of sale or lease, including the addition to or re-subdivision of land, if not exempted by the terms of the Zoning Ordinance.

**Vested Right.** A right is vested when it has become absolute and fixed and cannot be defeated or denied by subsequent conditions or change in regulations, unless it is taken and paid for. There is no vested right to an existing zoning classification or to have zoning remain the same forever. There can be no vested right in a sign permit if a sign permit is applied for under a sign ordinance that is later partially or wholly adjudicated to be unconstitutional by a court of competent jurisdiction.

### **Section 9.3. Applicability.**

This Section 9 does not pertain and is not applicable to:

(1) A Sign, other than a Window Sign, located entirely inside the premises of a building or enclosed space.

(2) A Sign on a car, other than a Prohibited Vehicle Sign or Signs.

(3) A Statutory Sign.

(4) A Government Sign.

(5) A Traffic Control Device Sign.

(6) Any Sign not visible from a public street, sidewalk or right-of-way or from a navigable waterway or body of water; except that the foregoing does not exempt a sign for a commercial use that is visible from an abutting residential use.

### **Sec. 9.4. Prohibited Signs.**

The signs and sign types listed below are prohibited within the city limits and shall not be erected, operated or placed on any property, except as may otherwise be provided in this Section IX. Any lawfully existing permanent sign structure or sign type that is among the prohibited signs and sign types listed below shall be deemed a nonconforming sign subject to the provisions of Section 9.10, Nonconforming Signs.

(1) Billboards.

(2) Off-Site Commercial Signs.

(3) Discontinued Signs.

(4) Abandoned Signs;

- (5) Animated Signs.
- (6) Flashing Signs.
- (7) Moving Signs.
- (8) Blinking Signs.
- (9) Scrolling Signs.
- (10) Twirling Signs.
- (11) Swinging Signs.
- (12) Multi-prism Signs.
- (13) Tri-vision Signs.
- (14) Revolving Signs.
- (15) Rotating Signs.
- (16) Flutter Signs.
- (17) Feather Signs.
- (18) Wind-activated signs, such as streamers, pennants, and balloons, including wind-activated banners, cold air inflatables and other fixed aerial advertising signs or signage, when used for commercial advertising.
- (19) Holographic Display Signs.
- (20) Floodlights and beacon lights used to display messages, except when required by the Federal Aviation Administration.
- (21) Bandit Signs.
- (22) Snipe Signs.
- (23) Signs nailed, fastened, affixed to, or painted on any tree or part thereof (living or dead), or other vegetation.
- (24) Signs that emit sound, vapor, smoke, odor, or gaseous matter.
- (25) Signs attached to a dock, buoy, tie pole or pier; other than Warning Signs, Hazard Signs and Safety Signs.
- (26) Signs in or upon any body of water within the limits of the City; except Warning Signs, Hazard Signs, and Safety Signs.

- (27) Pavement markings, except for official traffic control markings and building address markings required by law or as approved by city council resolution.
- (28) Signs within a Sight Visibility Triangle obstructing a clear view of pedestrian or vehicular traffic.
- (29) Portable Signs, except for A-Frame and T-Frame Signs as allowed in this Section.
- (30) Roof Signs.
- (31) Bus Bench Advertising Signs and Bus Shelter Advertising Signs.
- (32) Attached Signs that are taller than the wall of the building to which the sign is attached.
- (33) Attached Signs that exceed two hundred fifty (250) square feet in sign area.
- (34) Freestanding Signs which are higher than thirty (30) feet.
- (35) Freestanding Signs that exceed three hundred (300) square feet in sign area.
- (36) Signs that have either deteriorated or been damaged to such an extent that the cost of reconstruction or restoration of such sign is in excess of fifty percent (50 %) of its replacement value exclusive of its foundation.
- (37) Signs, other than traffic control device signs, that use the word "stop" or "danger," or present or imply the need or requirement of stopping or the existence of danger, or which are a copy or imitation of traffic control device signs and which are adjacent to the right-of-way of any road, street, or highway.
- (38) Signs that obstruct, conceal, hide or otherwise obscure from view any traffic control device sign or official traffic signal.
- (39) Signs that are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled public rights-of-way thereby creating a potential traffic or pedestrian hazard or a nuisance to inhabitants of an adjacent neighborhood. No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.
- (40) Signs that contain any food or other substance that attracts large numbers of birds or other animals and causes them to congregate on or near the sign.
- (41) Wall Wrap Signs.
- (42) Prohibited Vehicle Sign or Signs.
- (43) Signs in, on, or over the public right-of-way; other than Government Signs, A-Frame Signs or T-Frame Signs as allowed herein, Projecting Signs, as allowed herein, and Awning Signs or attached Canopy Signs over a public right-of-way as allowed herein.

- (44) Signs located on real property without the permission of the property owner.

### Section 9.5. General Provisions for Signs.

The following general sign provisions shall apply to this section and to all lawful conforming and nonconforming signs, unless otherwise indicated.

- (1) Measurement of Sign Size (Sign Area). The area of a sign is measured or calculated as follows:

a. Background panel signs. Sign copy that is mounted, affixed, or painted on a background panel or area distinctively painted, textured or constructed as a background for the sign copy, is measured as that area contained within the sum of the smallest rectangles, squares, triangles, parallelograms, circles or ellipses, or combination thereof, that will enclose both the sign copy and the background.

b. Background surface signs. The area of a sign consisting of copy mounted as individual letters or graphics against a wall, fascia, or parapet of a building surface or another surface, that has not been painted, textured, or otherwise altered to provide a distinctive background for the sign copy, is measured as the sum of the smallest rectangles, squares, triangles, parallelograms, circles or ellipses that will enclose each word, graphic or discrete visual element in the total sign.

c. Illuminated background signs. The area of a sign with copy mounted, affixed, or painted on an illuminated surface or illuminated element or a building or structure, is measured as the entire illuminated surface or illuminated element which contains sign copy.

d. Double-faced signs. If a sign has two display faces, and the perimeter of both faces coincide, are parallel, and are not more than twenty-four (24) inches apart, then the sign area is one sign face only. Otherwise, the sign faces are considered to be separate signs and sign faces and subject to any and all applicable restrictions.

e. Multi-faced signs. If a sign has three or more faces, then the sign area is equal to fifty percent (50%) percent of the aggregate area of all sign faces. The area of each face shall be determined according to subsection (a) or (b) of this section, as applicable.

f. Sculptural and nonplanar signs. When a sign is in the form of a three-dimensional object, the area shall be determined by drawing a square, rectangle, triangle, circle or combination thereof, which will encompass the projected image of the sign and multiplying that area by two (2). The "projected image" is that image created by tracing the largest possible two-dimensional outline of the sign.

g. Open-letter display area. An open-letter display area for a wall sign shall be measured by the number of square feet in the smallest rectangle within which all letters, logos, symbols or other elements of the sign can be enclosed.,

- (2) Measurement of Sign Height.

The height of a freestanding sign shall be measured as the vertical distance from the average finished grade of the ground below the sign excluding any filling, berming, mounding or excavating solely for the purposes of increasing the height of the sign, to the top edge of the highest portion of the sign. The maximum height allowed for a freestanding sign, however, shall not include any architectural embellishment provided the embellishment does not exceed thirty-six (36) inches at the base of the sign and eighteen (18) inches at the top of the sign.

For the purposes of this section, average finished grade shall be considered the lower of (a) the lowest elevation where the base of the sign meets ground level; or (b) the top of the curb of the nearest public street adjoining the property upon which the sign is erected, or (c) the grade of the land at the principal entrance to the lot on which the sign is located with administrative review and approval by the Planning Director according to content-neutral criteria.

(3) Sign Illumination for Temporary Signs and Permanent Signs.

a. Sign illumination is prohibited for temporary signs.

b. Permanent sign on a parcel in residential use. A permanent sign located on a parcel in residential use in any zone may not be separately or specially illuminated, unless otherwise specified in this section.

c. Permanent sign on a parcel in nonresidential use. A permanent sign on a parcel in nonresidential use may be illuminated by internal illumination, internal indirect (halo) illumination, or lit by external indirect illumination, unless otherwise specified in this section. However, a permanent sign may not be illuminated in a manner that leaves the illumination device exposed to public view except with the use of neon tubing as provided in subsection (h) of this section.

d. Internal illumination. Outdoor internally illuminated signs, including but not limited to awning/canopy signs, cabinet signs (whether freestanding or building mounted), changeable copy panels or service island signs, shall be constructed with an opaque background and translucent letters or other graphical elements, or with a colored background and lighter letters or graphics.

e. External indirect illumination. Externally lit signs are permitted to be illuminated only with steady, stationary, down directed and shielded light sources directed solely onto the sign. Light bulbs or tubes (excluding neon), used for illuminating a sign, shall not be visible from the adjacent public rights-of-way or residential properties.

f. Illumination of signs adjacent to single-family residential uses. No sign located within fifty (50) feet of a property with a single-family use or zoned for a single-family use shall be internally illuminated.

g. Any portion of the sign face or sign structure that is illuminated shall count against the total square footage of allowable sign area.

h. Neon.

(i). Exposed neon. Exposed neon tube illumination is not permitted in residential zones, or for residential uses in any zone. It is allowed in all other places, unless otherwise specified.

(ii). Neon borders. Neon illumination used as a sign copy projection, border, frame or other embellishment of sign copy shall not be included in the total size or area of the sign, provided the measured area of any such projection or detailed embellishment does not exceed twelve (12) square feet in area, or twenty-five percent (25%) of the sign display face area, whichever is greater. If neon embellishments exceed these limits, then the embellishments shall be included and counted as part of the permitted sign area for the use.

(iii.) Devices that illuminate a sign or signs shall be placed and shielded so that the direct light rays reflecting from such devices or from the sign itself shall not be cast into the eyes of any passing motorist.

(4) Viewpoint Neutrality.

Notwithstanding anything in this section to the contrary, no sign or sign structure shall be subject to any limitation based upon the viewpoint of the message contained on such sign or displayed on such sign structure.

(5) Substitution of Noncommercial Speech for Commercial Speech.

Notwithstanding anything contained in this section to the contrary, any sign erected pursuant to the provisions of this section may, at the option of the owner, contain a non-commercial message in lieu of a commercial message and the noncommercial copy may be substituted at any time in place of the commercial copy. The noncommercial message (copy) may occupy the entire sign face or any portion thereof. The sign face may be changed from a commercial message to a noncommercial message or from one noncommercial message to another non-commercial message; provided, however, that there is no change in the size, height, setback or spacing criteria contained in this section.

(6) Consent of Legal Owner of Property.

No sign may be displayed without the consent of the legal owner of the property on which the sign is mounted or displayed. For purposes of this policy, "owner" means the holder of the legal title to the property and any party and person holding a present legal right to possession, control, or use of the property.

(7) Signs on Public Property.

Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be deemed illegal and shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such sign the cost of removal and disposal of such sign. The

foregoing shall not apply to temporary A-Frame signs and T-Frame signs as allowed pursuant to the conditions and limitations set forth herein.

(8) Signs That Obstruct Means of Egress.

No sign shall be erected, displayed, or maintained so as to obstruct any fire escape, any required exit way, window or door opening used or intended to be used as a means of egress, or obstruct any other means of egress required by the Building Code.

(9) Signs That Interfere with Ventilation Openings.

No sign shall be erected, displayed, or maintained that interferes with any opening required for ventilation under the Building Code.

(10) Signs Must Maintain Clearance from Utilities and Shall Not Interfere with Surface and Underground Water or with Drainage.

Signs shall maintain a minimum distance of six (6) feet horizontal clearance and twelve (12) feet overhead clearance from electrical conductors and from all communications equipment or lines. Signs and their supporting structures shall maintain clearance from and noninterference with all surface and underground facilities and conduits for water, sewage, electricity, or communications equipment or lines. Sign placement shall not interfere with surface or underground water or with natural or artificial drainage.

(11) Signs Shall Not Be Attached to Certain Property and Shall Not Impair Roof Access.

Signs shall not be attached to standpipes, gutters, drains or fire escapes. Signs shall not be installed so as to impair access to a roof.

(12) Signs Declared a Nuisance and Repair; Signs Presenting Immediate Peril to Public Health or Safety.

The chief building inspector of the building inspection division or his or her designee (a) may order the repair of signs which in his or her professional opinion determines to be a nuisance, (b) with or without notice, may cause any sign determined in his or her professional opinion to be structurally unsafe or structurally insecure, including any sign not securely affixed to the ground or otherwise affixed in a permanent manner to an approved supporting structure, to be immediately removed if in his or her professional opinion the sign presents an immediate peril to the public health or safety, and (c) with or without notice, may order the removal of a sign which in his or her professional opinion has deteriorated or been damaged to such an extent that the cost of reconstruction or restoration of such sign is in excess of fifty percent (50 %) of its replacement value exclusive of any foundation.

(13) Street Address Signs.

For each parcel and for each tenant space, one sign for the official street address shall be displayed for public safety and to serve as visible street address for delivery of mail and official governmental notification.

a. For a parcel in residential use, the street address sign shall not exceed two (2) square feet in sign area.

b. For a parcel in non-residential use, the street address sign shall not exceed four (4) square feet in sign area.

c. The street address sign in a residential use may be externally illuminated and in a non-residential use may be externally or internally illuminated.

(14) Ingress and Egress Signs.

For safety purposes and for traffic circulation purposes, permanent ingress and egress signs to a parcel are permitted provided the same do not exceed four (4) square feet in size and no more than three (3) feet in height. Such signs shall not require a permit.

(15) Flagpoles and Flags; Flag Brackets, Flag Stanchions and Flags.

a. Flagpoles and Flags. For each parcel and development site in residential use with one principal structure, one flagpole may be installed and two (2) flags may be displayed per flagpole. A flag in a residential Zoning District displayed on a flag pole shall not exceed forty (40) square feet in size. For each parcel and development site that is over one-half (1/2) acre in size and is in nonresidential use, up to three flagpoles may be installed and up to two (2) flags may be displayed per flagpole. A flag in a non-residential Zoning District displayed on a flag pole shall not exceed one hundred fifty (150) square feet in size.

b. Flag Brackets, Flag Stanchions, and Flags. For each principal structure on a parcel, up to two flag brackets or stanchions may be attached or placed for the display of flags. A flag displayed from a flag bracket or a flag stanchion shall not exceed twenty-four (24) square feet in size.

c. For the purpose of determining the size of a flag, only one side of the flag shall be counted as the display surface.

d. Flags on parcels in non-residential use may be externally illuminated.

(16) Noncommercial Onsite Parking Space Signs.

Parking space signs identifying parking spaces necessary for traffic safety, regulation, control and circulation. A parking space sign shall carry no commercial message and shall not exceed two (2) square feet of sign face per sign. Parking space signs shall be allowed on each parcel having multiple parking spaces onsite. One such sign shall be allowed for each parking space. The maximum height for a freestanding or an attached parking space sign shall be six (6) feet.

(17) Signs at Convenience Stores with Fuel Islands.

For convenience store with fuel islands, one (1) double-sided sign or two (2) single-sided signs are allowed per island. Such signs shall not exceed four (4) square feet per side and shall not be mounted higher than eight (8) feet. Such signs shall not be mounted on any bollard or barrier designed to protect equipment from damage. Such signs may not be illuminated.

For convenience store with fuel islands, one (1) canopy sign may be installed for each canopy side facing a public street or driveway. A canopy sign shall not exceed ten (10) square feet and shall not be mounted higher than the top of the canopy itself. A canopy sign may be internally illuminated. The square footage of all canopy signs on a canopy shall be counted against the maximum square footage of allowed wall signage for any building wall sign on the same parcel.

(18) Freestanding Signs. A freestanding sign may be a pole sign or a monument sign, unless otherwise restricted and where allowed, and subject to the following:

a. General Requirements. In the C-1, C-2, C-3, M-1, M-2, I-1 and GC Zoning Districts, pole signs and monument signs may display two or more sign surfaces provided there is no spacing or open gap between the sign surfaces, subject to the additional provisions set forth below for single-lot general businesses and for group developments. In the event that a reader board is attached to a freestanding sign, the reader board sign surface shall be no larger than fifty percent (50%) of the principal sign surface area.

b. Single-Lot General Businesses. The maximum area of a freestanding sign shall not exceed one hundred (100) square feet. The maximum height of a freestanding sign shall be twenty (20) feet. Only one (1) freestanding sign is allowed per single-frontage lot; and up to two (2) freestanding signs are allowed for a corner lot or for double-frontage lots. No lot shall have more than two freestanding signs. Notwithstanding the foregoing, freestanding signs are not allowed in the C-1 Zoning District for single-lot general businesses.

c. Certain Small Group Developments. For group developments that are comprised of offices or strip mall shopping centers with an aggregate gross building area not to exceed 29,999 square feet, the maximum area of a freestanding sign shall not exceed one hundred twenty (120) square feet, and the maximum height of a freestanding sign shall not exceed twenty (20) feet. For group developments that are comprised of neighborhood shopping centers with an aggregate of 30,000 to 64,999 square feet of building area, the maximum area of a freestanding sign shall not exceed two hundred (200) square feet, and the maximum height of a freestanding sign shall not exceed twenty (20) feet. Only one (1) freestanding sign is allowed for each street frontage of a group development. A freestanding sign for a single tenant of a group development is prohibited.

d. Group Developments-In General. Except as set forth in subsection (18)c, for group developments, the maximum area of a freestanding sign shall not exceed three hundred (300) square feet and the maximum height of a freestanding sign shall be thirty

(30) feet. Only one (1) freestanding sign is allowed for each street frontage of a group development. A freestanding sign for a single tenant of a group development is prohibited.

(19) Wall Signs.

a. Wall signs shall not extend above the top of a building wall.

b. The maximum total display area for wall signs in the R-1, R-1A, R-2, R-3, R-4, R-4M, R-5, R-5M, and PRD Zoning Districts shall be four (4) square feet. Only one wall sign is allowed per residence.

c. The maximum total display area for wall signs in the AP, and FP, Zoning Districts shall be twelve (12) square feet. Only one (1) wall sign is allowed per building.

d. The maximum total display area for wall signs in the C-1, C-2, C-3, M-1, M-2, I-I, R/E, GC, and HOD Zoning Districts are as follows:

(i). On any single lot with 30,000 square feet or less of floor area, the maximum total display area for wall signs shall be the lesser of (a) the display area calculated at one and six-tenths (1.6) square feet of sign area for each lineal foot of exterior wall business frontage, or (b) 200 square feet. The exterior wall business frontage shall be the front exterior wall facing the public right-of-way of a street.

(ii). On any single lot with more than 30,000 square feet of floor area, the maximum total display area for wall signs shall be the lesser of (a) the display area calculated at one and six-tenths (1.6) square feet of sign area for each lineal foot of exterior wall business frontage, or (b) 320 square feet. The exterior tenant wall business frontage shall be the front exterior wall facing the public right-of-way of a street.

(iii). For a Group Development, the maximum total display area for each tenant for an exterior wall sign on the exterior wall business frontage shall be the lesser of (a) the display area calculated at one and six-tenths (1.6) square feet of sign area for each lineal foot of exterior wall business frontage, or (b) 100 square feet. The exterior business wall frontage for each tenant space within a Group Development shall be the front exterior wall facing the public right-of-way of a street.

(iv). For a single building housing multiple businesses, including subtenants as secondary businesses, having a shared entrance, each business may have one wall sign not exceeding sixteen (16) square feet on the exterior wall business frontage; provided, however, that the aggregate display area for all wall signs on the exterior wall business frontage shall not exceed two hundred (200) square feet. The exterior wall business frontage shall be the front exterior wall facing the public right-of-way of a street.

e. One (1) wall sign is allowed for each face of a building or part of a building that is occupied by a permitted or conditional non-residential use. The size (area) of the wall sign for an occupant or a tenant shall be the lesser of: (i) two hundred fifty (250) square feet, or alternatively (ii) one (1) square foot per one (1) linear foot of building frontage for a single occupant building or one (1) square foot per one (1) linear foot of building frontage for the occupant or tenant space in a multi-tenant development, each as measured on the street toward which the wall sign is oriented. A wall sign shall not extend higher than the building wall to which it is attached. Up to fifty percent (50%) of the wall sign surface may consist of a changeable copy sign; provided, however, that the sign copy of the changeable copy sign shall not change more than once in any twenty-four (24) hour time period. The wall sign shall not project more than twelve (12) inches from the wall. If the wall sign projects more than two and one-half (2 ½) inches from the wall, the wall sign shall be mounted so that the bottom of the wall sign is at least nine (9) feet above ground at finished grade below the wall sign. The wall sign may be illuminated.

f. In addition to any wall sign allowed above, one (1) permanent wall sign may be allowed for a parcel in educational, religious or public use. The wall sign shall not exceed thirty two (32) square feet in sign area and shall not exceed eight (8) feet in height. The wall sign may be illuminated. However, this additional permanent wall sign shall not be allowed if there is an additional monument sign on the same parcel.

(20) Drive-Through Lane Signs.

For a drive-through establishment, an additional display sign is allowed for each drive-through lane provided that such sign does not exceed forty (40) square feet in size and does not exceed eight (8) feet in height. The additional display sign may be internally illuminated and may emit sound only as part of a business transaction.

(21) Umbrella Signs.

For each table in an outside seating area for a licensed business establishment, one (1) umbrella sign per umbrella is allowed. An umbrella sign shall not exceed three (3) square feet in area and shall not exceed eight (8) feet in height. An umbrella having an umbrella sign shall be mounted on or in the table or in an umbrella holder adjacent to the table. A sign permit is not required for an umbrella sign.

(22) Awning Signs.

For each awning, one sign is allowed. The awning sign shall not exceed an area greater than thirty (30) percent of the surface area of the awning or canopy. The total square footage of the awning sign shall count toward the maximum square footage of the wall sign area allowed for a parcel or a tenant. An awning sign may be internally illuminated.

(23) Canopy Signs.

For each canopy, one sign is allowed. Except for the sign area limitation for canopy signs at convenience store with fuel islands, a canopy sign shall not exceed an area greater than thirty

(30) percent of the surface area of the canopy. The total square footage of the canopy sign shall count toward the maximum square footage of the wall sign area allowed for a parcel or a tenant. A canopy sign may be internally illuminated.

(24) Changeable Copy Signs.

a. As part of a permitted on-premise freestanding sign or wall sign and notwithstanding Section 9.4, Prohibited Signs, or any other provision of this Section IX to the contrary, an on-premise changeable copy sign, manual or electronic (LED), may be installed. The changeable copy sign shall not exceed fifty percent (50%) of allowable area of the freestanding sign or wall sign.

b. Notwithstanding Section 9.4, Prohibited Signs, or any other provision of this Section IX to the contrary, the static display time for each message on an on-premise changeable copy sign shall be at least ten (10) seconds, and the time to change from one (1) message to another shall be no greater than two (2) seconds. There shall be no vested right to the display time for an on-premise changeable copy sign. The length of time for the message to remain static may be changed by future regulation to a shorter or longer dwell time based upon traffic safety and/or other factors deemed relevant by the City Council. In no event shall the message scroll in any direction. On-premise changeable copy signs shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of public right of way of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle. On-premise changeable copy signs shall not be erected or maintained which shall be so illuminated that they obscure or interfere with any official traffic signs, device, or signal. To ensure driver safety, changeable copy signs must include a default designed to freeze a display in one (1) position if a malfunction occurs. On-premise changeable copy signs must have a process for modifying displays and lighting levels where and if directed by the Alabama Department of Transportation or the City Engineer to assure safety of the motoring public.

(25) Projecting Signs.

a. For buildings in the Downtown Commercial Zoning District (C-1), one (1) projecting sign is allowed for each ground floor occupant or tenant space. The projecting sign shall be attached to the building frontage on the street or driveway on which the sign is located.

b. The maximum size of a projecting sign shall be the lesser of (a) sixteen (16) square feet or (b) one (1) square foot per linear foot of occupant or tenant building frontage on the street or private driveway on which it is located; however, the square footage of a projecting sign shall count toward the maximum square footage of wall signage allowed for the building.

c. The maximum thickness of the sign face of a projecting sign shall not exceed twenty-four (24) inches when such sign is of solid construction.

d. The minimum vertical clearance of a projecting sign shall be nine (9) feet, and shall not be mounted higher than the wall of the building.

e. A projecting sign that extends over a sidewalk in the public right-of-way shall be limited to a projection distance not to exceed two-thirds (2/3) of the width of the sidewalk. A projecting sign may be illuminated.

(26) Window Signs.

Permanent window signs are permitted provided that the window sign may not cover more than thirty percent (30%) of the area of any window. Permanent window signs may be internally illuminated. A sign permit is not required for a permanent window sign.

(27) Door Signs.

Permanent door signs are permitted provided that the permanent door sign may not cover more than thirty percent (30%) of the area of any door. Permanent door signs shall not be illuminated. A sign permit is not required for a permanent door sign.

(28) Wind-activated signs.

Permanent wind-activated signs when used for commercial advertising are prohibited in all zoning districts.

**Section 9.6. Temporary and Permanent Signs Allowed in Zoning Districts.**

(1) The signage rights and responsibilities for temporary signs and permanent signs shall be determined by the provisions of Section 9.5, General Provisions for Signs, and by the sign provisions for the zoning districts as set forth below in Section 9.7, Temporary Signs Allowed in Zoning Districts, and Section 9.8, Permanent Signs Allowed in Zoning Districts.

(2) However, in connection with residential uses in nonresidential zoning districts and nonresidential uses in residential zoning districts, the signage rights and responsibilities applicable to any particular use shall be determined as follows:

a. In a residential zoning district where a nonresidential use is allowed, whether as a matter of right or by way of a conditional use permit or other process with stated criteria governing the allowance of the nonresidential use, the nonresidential use shall be treated as if it was located in a zoning district where the nonresidential use would be allowed, either as a matter of right or subject to a conditional use permit or other process with stated criteria governing the allowance of the nonresidential use; and

b. In a nonresidential zoning district where a residential use is allowed, the residential use shall be treated as if it was located in the residential zoning district where that type of use would be allowed as a matter of right.

**Section 9.7. Temporary Signs Allowed in Zoning Districts.**

(1) Within its zoning districts and subject to any applicable provisions with Section 9.5, General Provisions for Signs, the City shall allow temporary signs that meet the criteria and limitations set forth in Table 9.7.1a and Table 9.7.1b, shown below.

(2) A temporary government sign shall not require a sign permit and shall be allowed in all zoning districts on public property and public rights-of-way unless otherwise provided herein. However, the foregoing shall have no impact on any separate requirements established by state statute for building permits, electrical permits or other statutory permits.

(3) A temporary sign displayed on a window surface must be displayed on the inside of the window surface, shall cover no more than thirty (30%) of the window surface, and shall not be illuminated.

**TABLE 9.7.1a. CRITERIA AND LIMITATIONS FOR  
TEMPORARY A-FRAME AND T-FRAME SIGNS  
IN THE C-1, C-2, C-3, VC, PUD, AND R/E ZONING DISTRICTS**

TEMPORARY A-FRAME AND T-FRAME SIGNS	
Maximum Number of Signs	1 per business
Maximum Width	3 feet
Maximum Height	3-1/2 feet
Minimum Setback/Distance from Curb	1 foot
Maximum Width of Public Sidewalk that the Sign May Obstruct	No more than one third of width of public sidewalk
Maximum Distance of Sign from Main Entrance to Business	10 feet
Duration Allowed	Only during hours while business is open
Allowed on Public Property and Right-of-Way	Yes
Allowed in a Sight Visibility Triangle	No
Illumination Allowed	No

**TABLE 9.7.1b. CRITERIA AND LIMITATIONS FOR ALL OTHER TEMPORARY SIGNS IN ALL ZONING DISTRICTS**

<b>CRITERIA AND LIMITATIONS</b>			
<b>ZONING DISTRICTS</b>	<b>R-1, R1-A, R-2, R-3, R-4, R-4M, R-5, R-5M, VR, PRD, PUD</b>	<b>C-1, VC C-2, C-3, M-1, M-2, I-1</b>	<b>AP, PUD, R/E, FP, GC, HOD</b>
Maximum Number of Temporary Signs Per Parcel <sup>1</sup>	8	4	4
Maximum Sign Size (Area) for a Temporary Sign <sup>2</sup>	8 sf.	32 sf.	32 sf.
Maximum Sign Height for a Temporary Freestanding Sign <sup>3</sup>	6 ft.	6 ft.	6 ft.
Maximum Sign Height for a Temporary Wall Sign (inclusive of a Window Sign)	15 ft.	15 ft.	15 ft.
Minimum Sign Setback required to be maintained by a Temporary Ground Sign from any property line <sup>4</sup>	3 ft.	3 ft.	3 ft.
Minimum Sign Setback required to be maintained by a Temporary Ground Sign from the edge of any paved street or road	3 ft.	3 ft.	3 ft.
Minimum Spacing that is required to be maintained by a Temporary Ground Sign from any other Temporary Ground Sign <sup>5</sup>	15 ft.	15 ft.	15 ft.
Maximum Aggregate Surface Area Allocated for All Temporary Signs on a Parcel <sup>6</sup>	64 sf.	128 sf.	128 sf.
Whether Temporary Sign is Allowed on Public Property or Public Right-of-Way	No	No	No
Allowed in a Sight Visibility Triangle	No	No	No
Direct Illumination of Surface of Temporary Sign Allowed	No	No	No
Duration allowed after event ends	7 calendar days	7 calendar days	7 calendar days

<sup>1</sup> The number of temporary commercial signs per parcel shall be no more than two (2) signs; however, no more than one temporary commercial sign per parcel may be a banner sign and a temporary commercial banner sign is limited to a maximum duration of display of no more than thirty (30) days per calendar year per parcel.

<sup>2</sup> The square footage limitation is per side for a back-to-back sign. For example, a four (4) square foot limitation means that there is a limit of four (4) square feet of surface area per side of a back-to-back sign, and an aggregate limit of eight (8) square feet is allowed if the sign is a back-to-back temporary sign.

<sup>3</sup> Not applicable to signs displayed on flagpoles.

<sup>4</sup> Minimum sign setbacks do not apply to wall signs. Except as set forth in Section 9.7.1a for A-Frame Signs and T-Frame Signs, all Temporary Signs are prohibited on public property and from public rights-of-way.

<sup>5</sup> Not applicable to signs displayed on flagpoles.

<sup>6</sup> There is no limit to the number of separate messages that may appear on the allowable surface(s) of any Temporary Sign. The maximum aggregate surface area allowed is subject to circumstances that may reduce the maximum aggregate surface area allowable on some parcels.

**Section 9.8. Permanent Signs Allowed in Zoning Districts.** Within its zoning districts and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in the subsections below. Unless otherwise provided herein, a permanent sign shall require a sign permit; however, a government sign on public property or public rights-of-way shall not require a sign permit and shall be allowed in all zoning districts on public property or public rights-of-way unless otherwise provided herein. The foregoing shall have no impact on separate requirements established by state statute for building code permits or other code permits.

(1) Within the Rural Zoning District, Residential Transition Zoning District, Low Density Residential Zoning Districts, Medium Density Residential Zoning Districts, and Village Residential Zoning Districts (R-1, R-1A, R-2, R-3, and VR Zoning Districts) and subject to the provisions with Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(1) below.

**TABLE 9.8(1)**

Rural, Residential Transition, Low Density Residential, Medium Density Residential, and Village Residential Districts (R-1, R-1A, R-2, R-3, and VR)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Not Allowed	N/A
Signs at Convenience Store with Fuel Islands.	Not Allowed	N/A
Freestanding Signs	Not Allowed	N/A
Wall Signs	Not Allowed	N/A
Drive-Through Lane Signs	Not Allowed	N/A
Umbrella Signs	Not Allowed	N/A
Awning Signs	Not Allowed	N/A
Canopy Signs	Not Allowed	N/A
Changeable Copy Signs	Not Allowed	N/A
Projecting Signs	Not Allowed	N/A
Window Signs	Not Allowed	N/A
Door Signs	Not Allowed	N/A
Wind-Activated Signs	Not Allowed	N/A

(2) Within High Density Residential and Multi-Family Residential Zoning Districts (R-4, R-4M and R-5, R-5M Zoning Districts) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(2) below.

TABLE 9.8(2)

High Density Residential and Multi-Family Residential Zoning Districts (R-4, R-4M, R-5, and R-5M Zoning Districts)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands.	Not Allowed	N/A
Freestanding Signs	Allowed as per Section 9.5(18)	Permit Required
Wall Signs	Not Allowed	N/A
Drive-Through Lane Signs	Not Allowed	N/A
Umbrella Signs	Not Allowed	N/A
Awning Signs	Not Allowed	N/A
Canopy Signs	Not Allowed	N/A
Changeable Copy Signs	Not Allowed	N/A
Projecting Signs	Not Allowed	N/A
Window Signs	Not Allowed	N/A
Door Signs	Not Allowed	N/A
Wind-Activated Signs	Not Allowed	N/A

(3) Within the Downtown Commercial Zoning District, Office/Retail Zoning District, General Commercial Zoning District, and Village Commercial Zoning District (C-1, C-2, C-3, and VC Zoning Districts) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(3) below.

**TABLE 9.8(3)**

Downtown Commercial Zoning District, Office/Retail Zoning District, General Commercial Zoning District, and Village Commercial Zoning District (C-1, C-2, C-3 and VC Zoning Districts)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with fuel islands.	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs for the C-1, C-2, C-3 and VC Zoning Districts	Not Allowed	N/A

(4) Within the Industrial Zoning Districts (M-1 and M-2 Zoning Districts) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(4) below.

TABLE 9.8(4)

Industrial Zoning Districts (M-1 and M-2)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs for the M-1 and M-2 Zoning District	Not Allowed	N/A

(5) Within the Institutional Zoning District (I-1) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(5) below.

TABLE 9.8(5)

Institutional Zoning District (I-1 Zoning District)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Allowed as per Section 9.5(25)	Sign Permit Required
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs	Not Allowed	N/A

(6) Within the Airport Zoning District (AP) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(6) below.

TABLE 9.8(6)

Airport Zoning District (AP Zoning District)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Allowed as per Section 9.5(25)	Sign Permit Required
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs	Not Allowed	N/A

(7) Within its Planned Residential Development Zoning District (PRD) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(7) below.

**TABLE 9.8(7)**

Planned Residential Development Zoning District (PRD Zoning District)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs	Not Allowed	N/A

(8) Within a Planned Unit Development Zoning District (PUD) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the following criteria and limitations: For residential uses within an approved PUD, the City shall allow the permanent signs that meet the criteria in Table 9.8(2). For non-residential uses and for commercial uses within in an approved PUD, the City shall allow the permanent signs that meet the criteria in Table 9.8(3). The criteria for permanent signs within an approved PUD may be revised by the City Council as necessary to meet the particular needs within a planned unit development on a case by case basis.

(9) Within its Retail/Entertainment Zoning District (R/E) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(9) below.

TABLE 9.8(9)

Retail/Entertainment Zoning District (R/E Zoning District)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands.	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs	Not Allowed	N/A

(10) Within its Flood Plain Overlay Zoning District (FP) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(10) below.

TABLE 9.8(10)

Flood Plain Overlay District (FP Zoning District)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands.	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs	Not Allowed	N/A

(11) Within its Gateway Corridor Overlay Zoning Districts (GC Zoning District) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(11) below.

TABLE 9.8(11)

Gateway Corridor Overlay District (GC Zoning Districts)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles and Flags	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs	Not Allowed	N/A

(12) Within its Hospitality Overlay Zoning District (HOD) and subject to any applicable provisions within Section 9.5, General Provisions for Signs, the City shall allow permanent signs that meet the criteria and limitations set forth in Table 9.8(12) below.

TABLE 9.8(12)

Hospitality Overlay District (HOD Zoning District)		
Street Address Signs	Allowed as per Section 9.5(13)	Sign Permit Not Required
Ingress and Egress Signs	Allowed as per Section 9.5(14)	Sign Permit Not Required
Flagpoles	Allowed as per Section 9.5(15)	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Section 9.5(15)	Sign Permit Not Required
Noncommercial On-Site Parking Space Signs	Allowed as per Section 9.5(16)	Sign Permit Not Required
Signs at Convenience Store with Fuel Islands	Allowed as per Section 9.5(17)	Sign Permit Required
Freestanding Signs	Allowed as per Section 9.5(18)	Sign Permit Required
Wall Signs	Allowed as per Section 9.5(19)	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Section 9.5(20)	Sign Permit Required
Umbrella Signs	Allowed as per Section 9.5(21)	Sign Permit Not Required
Awning Signs	Allowed as per Section 9.5(22)	Sign Permit Required
Canopy Signs	Allowed as per Section 9.5(23)	Sign Permit Required
Changeable Copy Signs	Allowed as per Section 9.5(24)	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Section 9.5(26)	Sign Permit Not Required
Door Signs	Allowed as per Section 9.5(27)	Sign Permit Not Required
Wind-Activated Signs	Not Allowed	N/A

### **Sec. 9.9. Building Permits.**

It shall be unlawful for any person or business or the person in charge of the business to erect, construct, alter or maintain a sign structure, without first obtaining a building permit from the city in accordance with the provisions of the Building Code and applicable law. Permit fees for a building permit shall be paid in accordance with the applicable city fee schedules. The requirement of a building permit under the building code of the city is a separate and independent of the requirement for a sign permit under this section.

### **Sec. 9.10. Sign Permits.**

(1) Temporary signs do not require a sign permit.

(2) Unless exempt from permitting, no permanent sign shall be erected, altered, relocated, maintained or displayed until a sign permit is obtained from and the appropriate fee paid to the city. The sign permit is in addition to any building permit required to be obtained pursuant to the provisions of the building code of the City.

(3) No sign permit shall be issued for the erection of a prohibited sign.

(4) A sign lawfully erected may be repainted or have ordinary and customary repairs performed, including replacement of plastic or glass panels, without a sign permit; however, if such sign is to be structurally altered in any manner, a new sign permit shall be required and the altered sign must meet all requirements of this Section IX, the Zoning Ordinance and the Code.

(5) Exceptions from permitting. Temporary signs shall not require a sign permit. Unless identified in the tables in Section 9.7 as not requiring a sign permit and unless otherwise excepted from requiring a sign permit such as a government sign, all permanent signs shall require a sign permit. However these exemptions in no way waive any requirement set forth in the Building Code of the City; or any limitation or restriction on the number, size, height, setback, placement or duration of such signs under this section, or any limitation or restriction under any other applicable law or regulation.

(6) Permits not required for change of sign copy. No permit or permit fee shall be required for changing the copy of a sign, as long as no changes are made to the sign's height, size, location, or structure. This exemption shall also apply to any change of copy on a changeable copy sign.

(7) Sign permit applications. A sign permit application for a permanent sign as may be required by this section shall be prepared and submitted on forms available at the Department of Planning. The sign permit application is in addition to any building permit application required by the Building Code of the City. The applicant shall furnish the following information on or with the sign permit application form:

a. Name, address, telephone number, and e-mail address (if available) of the person making application for the permit. If the applicant is anyone other than the property owner, the applicant shall provide written authorization from the property owner permitting the installation of the sign.

- b. Name, address, telephone number, and e-mail address (if available) of the property owner. If the owner is an entity other than an individual, list the contact person's name.
- c. Name, address, telephone number, and e-mail address (if available) of the business tenant, if applicable. If the tenant is an entity other than an individual, list the contact person's name.
- d. Name, address, telephone, e-mail address (if available), and license number of the contractor, if applicable. If the contractor is an entity other than an individual, list the contact person's name.
- e. Address and legal description of the property upon which the sign is to be located. The legal address may be located on a certified boundary survey.
- f. Lot frontage on all streets and public rights-of-way.
- g. Indicate in feet and inches the location of the sign in relation to property lines, public rights-of-way, easements, overhead utility lines, other utility facilities and equipment, buildings and other signs on the property.
- h. Freestanding signs, including monument signs, shall require an accurate boundary survey signed and sealed by a land surveyor or engineer licensed in Alabama showing the proposed location of the sign.
- i. For all wall mounted signs, the facade elevation with dimensions, drawn to scale. Windows and doors and other openings shall be delineated and their dimensions given.
- j. Sign dimensions and elevation, drawn to scale.
- k. Maximum and minimum height of the sign measured from finished grade.
- l. Dimensions of the supporting members of the sign.
- m. Sign illumination, specifying illumination type, placement, and intensity.
- n. Two (2) copies of the plans, specifications, calculations and details, signed and sealed as required by the building code of the city; and specifications documenting the applicable wind load and electrical specifications, if applicable, meeting the minimum requirements of the applicable Electric Code.
- o. Number, type, location and surface area of all existing signs on the same property.
- p. Landscape plan, as applicable.

q. Notarized signature of applicant. If the value of construction is \$2,500.00 or greater, a certified copy of notice of commencement shall be required prior to permit issuance.

(6) Sign construction specifications.

a. Building Code. The erection of signs shall be in accordance with the structural requirements set forth in the Building Code.

b. National Electrical Code. Signs having electrical connections of any kind shall be wired in accordance with the National Electrical Code.

c. Inspections. Any sign having an electrical connection shall be permitted, inspected and approved by the electrical inspector prior to its completion. All sign structures shall be inspected and approved by the building official. The inspection point shall be selected by the building official. All excavations for concrete sign support bases shall be inspected and approved by the building official prior to the pouring of concrete.

d. Support requirements. The supporting members of all signs shall be free of any external bracing such as guy wires or cables. All supporting columns shall be designed as integral or architectural features of the sign.

e. Materials. Paper or cardboard signs and cloth or plastic fabric banners may only be used in conjunction with a special event as provided herein. However, paper or cardboard signs may be used for indoor window or election signs, when such are allowed.

f. Construction standards. All signs shall be installed and constructed in a professional and workmanlike manner; and shall be maintained in good and safe structural condition and good physical appearance. All exposed structural components shall be painted, coated, or made of rust inhibitive material.

(7) Design requirements. Sign work on all permanent signs shall ensure that all the letter strokes are vertically plumb or evenly slanted, and with alignment true and horizontally level. All signs and sign structures, except temporary signs and except for prohibited signs such as billboards and off-site commercial signs, shall be subject to the design requirements below.

a. Monument signs. Monument sign structures may extend above the allowable height and/or permitted horizontal dimension for the purposes of architecturally embellishing and enhancing the appearance of the sign structure. Such extensions shall not exceed thirty-six (36) inches for the base, eighteen (18) inches at the top of the sign, or twelve (12) inches for each vertical side of the sign.

b. Tenant panels in monument signs. All tenant panels in a monument sign, including those added to an existing sign structure, shall be constructed of similar materials and illuminated by a similar method.

c. Wall signs. Wall signs shall not be installed to cover windows, doors, or other types of fenestration.

d. **Manufactured Signs.** All manufactured signs requiring a sign permit shall have a permanent and visible weatherproof identification plate affixed to the sign exterior. The plate shall identify (1) the name of the manufacturer, (2) the date of installation, (3) the sign permit number, and (4) the electric permit number (if any) with the input VA (Volt Amperes) at full load for electric.

(8) **Sign permit application review.**

a. An applicant shall submit a sign permit application for a permanent sign to the Director of the Planning Department, or such other person or office as may be designated by the City. The sign permit application shall be reviewed for a determination of whether the proposed sign meets the applicable requirements of this section and any applicable provisions of the City's Zoning Ordinance and Code of Ordinances. Whenever required by state statute, the explanation for a denial of a sign permit shall include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit; in the event that the applicant fails to receive a statutorily required explanation, the applicant shall submit a written request for the explanation to the city's planning director via certified mail.

(i). The review of the sign permit application shall be completed within thirty (30) calendar days following receipt of a completed application, not counting the day of receipt

(ii). A sign permit shall either be approved, approved with any condition that is specifically described and set forth in the Zoning Ordinance or the Code of Ordinances, or disapproved, and the decision shall be reduced to writing. A disapproval shall include or be accompanied by a statement of the reason(s) for the disapproval.

(iii). In the event that no decision is rendered within thirty (30) calendar days following submission, not counting the day of receipt the application shall be deemed denied and the denial shall be a final decision of the City if the applicant chooses not to seek reconsideration at that time. At any time within sixty (60) calendar days, not counting the day of receipt following passage of the thirty (30) calendar day period, the applicant may submit a written request via certified mail to the city and request a decision setting forth the reason that the application was not approved and the city shall promptly respond within ten (10) calendar days after receipt of the written request, not counting the day of receipt by providing a written explanation of the reason(s) for the non-approval of the application for the permanent sign.

b. An approval, an approval with conditions, or disapproval by the Director of Planning shall be deemed the final decision of the City upon the application.

c. In the case of an approval with conditions or a disapproval, including a disapproval by lapse of time as described herein, an applicant may ask for reconsideration of the decision on the grounds that the Director of Planning may have overlooked or failed to consider any fact(s) that would support a different decision.

(i). A written request for reconsideration accompanied by such additional fact(s) that address the deficiencies that the applicant wants the Director of Planning to consider, shall be filed with the Director of Planning within fourteen (14) calendar days after the date of the written decision. No fee shall be required for a request for reconsideration.

(ii). Upon the timely filing of a request for reconsideration, the decision of the Director of Planning or designee shall be deemed stayed and not a final decision, until the request for reconsideration is decided. The request for reconsideration shall be decided within fourteen (14) calendar days of receipt by the city, not counting the day of receipt. Such decision shall be in writing and shall include a statement of the reason(s) for the decision. In the event that no decision is rendered within fourteen (14) calendar days following the request for reconsideration, the application shall be deemed denied and the denial shall then be a final decision of the City. At any time within sixty (60) calendar days, following passage of the fourteen (14) calendar day period, the applicant may submit a written request via certified mail to the city and request a decision setting forth the reason for the denial of the request for reconsideration and the City shall promptly respond within ten (10) calendar days after receipt of the written request, not counting the day of receipt, by providing a written explanation of the reason(s) for not approving the application upon reconsideration.

d. All decisions shall be mailed, transmitted electronically, or hand delivered to the applicant. A record shall be kept of the date of mailing, electronic transmittal, or hand delivery. For the purposes of calculating compliance with the thirty (30) day deadline for a decision upon an application or the fourteen (14) day deadline for a decision upon request for reconsideration, the decision shall be deemed made when deposited in the mail, transmitted electronically, or hand delivered to the applicant.

e. As exceptions to the foregoing, the thirty (30) day deadline for approval and the fourteen (14) day deadline for a decision upon receipt of a request for a reconsideration shall not apply (that is, the time shall be suspended):

(i). In any case in which the application requires a rezoning of the property, or an amendment to the Comprehensive Plan of the City, then upon written request of the applicant delivered to the Director of Planning by certified mail before the applicable deadline, the time shall be suspended until a final decision is made upon the application for the variance, rezoning, or comprehensive plan amendment.

(ii). If the applicant is required to make any change to the application in order to obtain an unconditional approval so as to satisfy an express provision of state law, the Zoning Ordinance, or the Code of Ordinances, then upon the written request of the applicant delivered by certified mail to the Director of Planning before the applicable deadline, the time shall be suspended while the applicant makes such change.

(iii). If an applicant is required by state statute or by any express provision of either the Zoning Ordinance or the Code of Ordinances, to obtain an

approval of the sign from any other governmental agency, then upon the request of the applicant in writing delivered by certified mail before the applicable deadline, the time shall be suspended. The time shall remain suspended until such approval is obtained or until the applicant requests in writing delivered by certified mail to the Director of Planning that the City take final action.

(iv). In any of the foregoing cases, the applicant may elect to not make any changes to the application or to not obtain an approval that may be required by another governmental agency, and may instead demand in writing a final decision upon the sign permit application as filed. Such a written demand shall be delivered by certified mail to the director of planning. In such event, the Director of Planning shall make a decision on the application as appropriate within thirty (30) calendar days after receiving such demand. If a decision is not made in such a time, the application shall be deemed denied.

f. Any person aggrieved by the decision of the Director of Planning upon a sign permit application, or aggrieved by any failure by the Director of Planning or by any other city official to act upon a sign permit application in accordance with the Zoning Ordinance, shall have the right to seek judicial review by or relief from the Circuit Court, or by any other court of competent jurisdiction, filed in accordance with the requirements of law, seeking such appropriate remedy as may be available.

g. If an applicant believes that his or her speech rights are being denied due to enforcement of subsection (8)c. or (8)e., above, he or she may immediately contact the planning department director, in writing via certified letter, and request immediate review of any pending sign permit application. If such a letter is received by the planning department director, the City shall have twenty (20) calendar days to review the permit application as under subsection (8)a., above, notwithstanding the provisions of subsection (8)c or (8)e., above. If the Director of the Planning Department does not respond to the applicant following receipt of the certified letter, the substance of the applicant's complaint shall be deemed rejected.

h. If an application is deemed incomplete, the applicant may either take steps to submit a complete application or challenge the City's decision by seeking judicial review by or relief from the Circuit Court or by any other court of competent jurisdiction, filed in accordance with the requirements of law, seeking such appropriate remedy as may be available.

(9) Sign permit fees. Before issuance of a permit, the Director of Planning shall collect the necessary sign permit fees. The sign permit fees shall be as designated by resolution or ordinance of the City Council.

(10) Inspection. The Director of Planning may make or require any inspections to ascertain compliance with the provisions of this Section IX and the Zoning Ordinance.

(11) Revocation of sign permit. If the work under any sign permit is proceeding in violation of this Section IX, the Zoning Ordinance, or the Building Code, or should it be found that there has been any false statement or misrepresentation of a material fact in the application or plans on which the sign permit was based, the permit holder shall be notified of the violation. If

the permit holder fails or refuses to make corrections within ten (10) calendar days, it shall be the duty of the Director of Planning to revoke such sign permit and serve notice upon such permit holder. Such notice shall be in writing and signed by the Director of Planning. It shall be unlawful for any person to proceed with any part of work after such notice is issued.

#### **Section 9.11. Nonconforming signs.**

All signs that are lawfully in existence or are lawfully erected and that do not conform to the provisions of this Section IX or the Zoning Ordinance are declared nonconforming signs. It is the intent of this section to recognize that the eventual elimination of nonconforming signs as expeditiously and fairly as possible is as much a subject of health, safety, and welfare as is the prohibition of new signs that would violate the provisions of this section. It is also the intent of this section that any elimination of nonconforming signs shall be effected so as to avoid any unreasonable invasion of established property rights.

(1) Legal nonconforming signs:

a. A legal nonconforming sign is a sign that lawfully existed at the time of the enactment of this section that does not conform to the regulations as specified in this section.

b. A legal nonconforming sign may continue to be utilized only in the manner and to the extent that it existed at the time of the adoption of this section or any amendment thereof.

c. A legal nonconforming sign may not be altered in any manner not in conformance with this section. This does not apply to reasonable repair and maintenance of the sign or to a change of copy provided that by changing the copy structural alterations are not required.

d. Any building permit for an addition, alteration, or improvement valued at more than fifty (50) percent of the fair market value of the structure or building for work at locations where any nonconforming sign exists shall specify and require that such nonconforming signs located within the boundaries of the development site, and within the limits of the applicant's control, shall be brought into conformance with the provisions of this section, provided that if the nonconforming sign is a type of sign that is prohibited under Section 9.4, Prohibited Signs in All Zoning Districts, it shall be removed.

e. Legal nonconforming signs that are located on a parcel of property that is severed from a larger parcel of property and acquired by a public entity for public use by condemnation, purchase or dedication may be relocated on the remaining parcel without extinguishing the legal nonconforming status of that sign provided that the nonconforming sign:

(i). Is not increased in area or height to exceed the limits of the zoning district in which it is located;

- (ii). Remains structurally unchanged except for reasonable repairs or alterations;
- (iii). Is placed in the most similar position on the remaining property that it occupied prior to the relocation; and
- (iv). Is relocated in a manner so as to comply with all applicable safety requirements.

After relocation pursuant to this subsection, the legal nonconforming sign shall be subject to all provisions of this section in its new location.

(2) Signs rendered nonconforming:

a. Except as provided in this section, a nonconforming sign may continue in the manner and to the extent that it existed at the time of the adoption, amendment or annexation of the section that rendered the sign nonconforming. This section shall not prohibit reasonable repairs and alterations to nonconforming signs.

b. A nonconforming sign shall not be re-erected, relocated or replaced unless it is brought into compliance with the requirements of this section. An existing monument sign that conforms to the size and height limitations set forth herein, but is otherwise nonconforming, may be relocated a single time to another location on the same parcel.

c. Any nonconforming sign shall be removed or rebuilt in full conformity to the terms of this section if it is damaged or allowed to deteriorate to such an extent that the cost of repair or restoration is fifty (50) percent or more of the cost of replacement of such sign.

(3) Signs for a legal nonconforming use:

a. New or additional signs for a nonconforming use shall not be permitted.

b. A nonconforming sign for a nonconforming use that ceases to be used for a period of one hundred eighty (180) consecutive calendar days or is replaced by a conforming use, shall be considered a prohibited sign and shall be removed or brought into conformance upon establishment of a conforming use.

(4) Signs discontinued:

a. Sign structures that remain vacant, unoccupied or devoid of any message, or display a message pertaining to a time, event or purpose that no longer applies shall be deemed to be discontinued.

b. A nonconforming sign deemed discontinued shall immediately terminate the right to maintain such sign.

c. Within one hundred eighty (180) calendar days after a sign structure has been discontinued, it shall be the responsibility of the property owner or the property owner's authorized agent to remove the discontinued sign and to patch and conceal any and all damage to any other structure resulting from removal of the sign.

d. Removal of a discontinued nonconforming sign shall include all sign support components, angle irons, poles, and other remnants of the discontinued sign that are not currently in use, or proposed for immediate reuse as evidenced by a sign permit application for a permitted sign.

(5) Unsafe Signs:

a. If the building official determines any sign or sign structure to be in an unsafe condition, he/she shall immediately notify, in writing, the owner of such sign who shall correct such condition within forty-eight (48) hours.

b. If the correction has not been made within forty-eight (48) hours, the building official may have the sign removed if it creates a danger to the public safety or have any necessary repairs or maintenance performed at the expense of the sign owner or owner or lessee of the property upon which the sign is located.

(6) Nonconformance of Signs. In addition to the provisions hereinabove, the following provisions shall apply.

a. All existing signs that are not specifically allowed or that do not comply with all the provisions of the Zoning Ordinance shall be considered nonconforming signs and shall not, after the effective date of this Section IX, be relocated, enlarged, structurally altered or extended unless such sign shall be made to comply with all provisions of this Section IX.

b. Any sign that was not specifically allowed or that did not comply with any previous version of the Zoning Ordinance is illegal if the same was relocated, enlarged, structurally altered or extended prior to the effective date of this Section IX unless the same had been made to conform to all the provisions of the Zoning Code prior to the effective date of this Section IX or unless the same received any vested right through a settlement agreement.

c. Normal repairs and repainting of a nonconforming sign is permitted. However, when a nonconforming sign is structurally repaired, damaged or destroyed by any means including neglect to the extent of fifty percent (50%) or more of its replacement value, exclusive of foundations, as determined by the Chief Building Inspector or his or her designee, the nonconforming sign shall not thereafter be restored, unless such sign shall be made to conform to all the provisions of this Section IX. A sign damaged to the extent of fifty percent (50%) or more of its replacement value shall be removed within ninety (90) calendar days by the property owner. In the case of a billboard that is subject to the jurisdiction of the Alabama Department of Transportation (ALDOT), a billboard shall be considered destroyed when the sign is damaged by an Act of God, fire, wind, flood, earthquake, or other catastrophic occurrence, and where the structure, inclusive of

structural supports and stringers, is damaged to the extent of fifty (50%) or more of its then current structural value as determined by an appraisal by ALDOT or its designate agent(s).

d. A new sign shall not be installed on a lot where a nonconforming sign exists until the lot conforms to the provisions of the Zoning Ordinance. A nonconforming sign shall be removed (i) if there is a change in the primary use of the lot or (ii) if the property on the lot is reconstructed, or improved by additions, or a combination of both reconstruction and additions, that exceed more than fifty percent (50%) of the value of the property on the lot. A change in the primary use of a lot shall be determined from the matrix table in Section 7.3 C. of the City's Zoning Ordinance. A change of primary use shall occur when the proposed use is different from the existing use as shown in the matrix table.

e. All existing portable signs still located in any zoning district shall be considered nonconforming and shall be removed unless permitted herein.

f. All existing billboards located in any zoning district, except as permitted in subsection g., below, shall be considered nonconforming and shall be regulated in accordance with the provisions of this Section IX, the Zoning Ordinance and the City Code.

g. For a billboard erected or maintained as the result of a settlement agreement involving the resolution of litigation or threatened litigation prior to the effective date of this Section IX, then such billboard may continue only for so long as and subject to specific and explicit rights granted in any such settlement agreement. In the absence of a specific right that is explicitly provided in a settlement agreement, there shall be no vested right to erect or maintain any billboard. Specifically, there is no vested right in the manner of operation of a billboard or its characteristics, such as brightness or hours of illumination, unless application of new rules is precluded. Further, nothing herein shall provide a defense to any claim or assertion by any affected person that a billboard or its operation constitutes a public or a private nuisance.

#### **Section 9.12. Miscellaneous Provisions.**

(1) Maintenance of Sign Location. For a sign requiring a sign permit, weeds and grass, all foliage shall be kept cut in front of, behind, underneath, and from around the base of the sign for a minimum distance of ten (10) feet from the sign base, and there shall be no rubbish or debris within ten (10) feet of the sign base or underneath the sign.

(2) Luminance/Brightness Level. All self-luminous outdoor signs are subject to brightness levels consisting of surface luminosity limits, both during the daytime and nighttime hours. During the daytime (after sunrise and before sunset), the maximum limit of luminosity shall be one thousand (1,000) nits, or 1000 cd/m<sup>2</sup>. During the nighttime hours (after sunset and before sunrise), there shall be a maximum limit of luminosity of one hundred fifty (150) nits, or 150 cd/m<sup>2</sup>.

(3) Reduction of Non-Digital Billboards through Conversion to, or Replacement by, Digital Billboards. To accomplish the City's goals of reducing billboards in the City, lawful nonconforming non-digital billboards that currently exist within the City may be converted to

nonconforming digital billboards based upon the trade ratio, the sunset provision, and the other conditions set forth in the attached Schedule A. No vested rights shall accrue except as specifically set forth in the **Schedule A**, which provides for a minimum trade ratio of 4:1 and a sunset period of twenty-five years.

#### **Section 9.13. Violations, Penalties.**

(1) No person shall erect on any premises owned or controlled by that person any sign which does not comply with the provisions of this Section IX.

(2) No person shall maintain or permit to be maintained on any premises owned or controlled by that person any sign which is in a dangerous or defective condition. Any such sign shall be removed or repaired by the owner of the sign or the owner of the premises, or as otherwise provided in this Section IX.

(3) Each sign installed, created, erected or maintained in violation of this Section IX shall be considered a separate violation when applying the penalty portions herein.

(4) Any violation of this Section IX is hereby declared to be a public nuisance.

(5) Both the owners or other persons in charge or control of the sign and owners or other persons in charge or control of the property on which the sign is located are responsible for assuring compliance with Section IX. Any failure or refusal to comply with Section IX shall be in violation and punished as herein provided.

(6) Any person, firm or corporation violating any of the provisions of this Section IX shall, upon conviction, shall be fined not more than \$200.00 plus costs of court. Each day that such a violation continues shall constitute a separate offense.

(7) The City, as an additional or alternative remedy, may institute injunctive, mandamus, or other appropriate action or proceeding in a court of competent jurisdiction to prevent, remove, repair, abate or correct any violation of this Section IX.

#### **Section 9.14 Removal of Unlawful and Dangerous Signs.**

(1) **Removal.** The City may order the removal of any sign in violation of this ordinance by written notice to the property owner. If a permit has been issued, such notice shall operate to revoke the permit.

(2) **Procedure Following Removal Order.** If the sign is not removed within fourteen (14) days after the order of removal, or fourteen (14) days after the date an appeal becomes final, the City shall remove or cause to be removed the sign and collect the cost thereof.

(3) **Removal Without Notice.** The City shall remove or cause to be removed any sign in violation of this Section IX without giving notice to any party, if:

(a) said sign is upon the public right-of-way or upon other public property; or

(b) said sign imposes an immediate safety threat to the life or health of any members of the public.

(4) Reclamation/Fees. The City may collect any costs incurred by the City in removal of any sign. Signs not claimed will be destroyed after fourteen (14) days.

### **Section 9.15. Severability.**

(1) Generally. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section IX is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section.

(2) Severability where less speech results. Without diminishing or limiting in any way the declaration of severability set forth above in subsection (1), above, or elsewhere in this Section IX of the Zoning Ordinance, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.

(3) Severability of provisions pertaining to prohibited signs. Without diminishing or limiting in any way the declaration of severability set forth above in subsection (1), above, or elsewhere in this Section IX of the Zoning Ordinance, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section IX that pertains to prohibited signs, including specifically those signs and sign types prohibited and not allowed under Section 9.4, Prohibited Signs, of this Section IX. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Section 9.4 is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Section 9.4 thereby ensuring that as many prohibited sign types as may be constitutionally prohibited continue to be prohibited.

(4) Severability of prohibition on billboards. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section and/or any other Ordinance provisions and/or laws are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the

prohibition on billboards as contained in this Section IX, or elsewhere in the Zoning Ordinance or the Code of Ordinances.

**END**

## SCHEDULE A

Pursuant to Section 9.12(3), entitled "Reduction of Non-Digital Billboards through Conversion to, or Replacement by, Digital Billboards," it is recognized that the City has a goal to reduce in the number of billboards in the City. In addition to ordinary attrition and in addition to the destruction of billboards through Acts of God, lawful nonconforming non-digital billboards that currently exist within the City may be removed by other means. Specifically, such nonconforming non-digital billboards may be converted to nonconforming digital billboards based upon the trade ratio, the sunset provision, and the other conditions as set forth in this Schedule A.

Except as specifically set forth in this Schedule A, no vested rights shall accrue to any person or entity.

This Schedule A provides for a minimum trade ratio of 4:1, namely *at least* four (4) qualifying nonconforming non-digital billboard sign faces (each qualifying sign face must equal or exceed two hundred twenty-five square feet (225 sq. ft.) must be removed as a pre-condition for the vested right to place one and *no more than one (1) digital billboard sign face* into operation. The replacement digital billboard structure shall have no more than two (2) digital faces, with any one digital sign face not exceeding three hundred square feet (300 sq. ft.). The surrounding cabinet or border shall not exceed six inches in width. Each sign face, up to a maximum of two sign faces per billboard structure, qualifies as an existing sign face so that the removal of an existing billboard structure with two (2) or more sign faces qualifies as the removal of two existing sign faces. However, all sign faces shall be removed from an existing billboard structure and the structure and visible foundation demolished and removed in order for each removed sign face to qualify as an eliminated sign. Each digital changeable face qualifies as a replacement sign face under this schedule. However, each advertising face within a digital changeable face shall not count as an additional replacement sign face. Notwithstanding the foregoing, if an eliminated sign structure has more than two (2) sign faces, only two sign faces count as a qualifying replacement sign face. Each replacement billboard sign structure shall be located at the site of an eliminated sign which was demolished and removed. In other words, all replacement sign structures are restricted to the locations of qualifying signs eliminated under this Schedule A. Replacement signs shall not be relocated to new sites or locations. All replacement signs shall meet all requirements and regulations of the City of Opelika and all applicable laws and regulations of the State of Alabama. Absent compliance with the foregoing, no building permit shall issue. If any building permit is issued without complying with the foregoing, then the building permit is void ab initio.

This Schedule A provides for a sunset period of twenty-five (25) years for any new digital billboard structure (inclusive of any new digital sign faces), meaning that any new digital billboard structure and any new digital billboard faces that are so placed must be physically removed in their entirety immediately upon the passage of twenty-five (25) years following their placement into operation or following the erection of the new billboard structure, whichever comes first.

Any nonconforming non-digital billboard structure that is voluntarily removed as a result of the loss or termination of lease, or that is substantially destroyed by an Act of God, shall not be eligible to be counted as a "qualifying non-digital billboard structure."

Any new digital billboard structure, inclusive of its digital billboard face(s), shall be and remain nonconforming under the City's Zoning Ordinance during the twenty-five (25) year sunset. In the event that any such structure is destroyed by an Act of God or is removed due to a loss or termination of lease before the conclusion of the twenty-five year period, then the structure may not be rebuilt or re-established elsewhere; and, in any such event, the sunset period shall be deemed at an end even though ten year period has not fully elapsed, and any and all vested rights that then existed shall be fully and completely extinguished.

Any new digital billboard structure and its digital billboard faces(s) that may be erected or placed in operation pursuant to this **Schedule A** shall be subjected to the following conditions as to placement [and operation]:

1. Digitally converted billboards (replacement billboards) shall be a minimum of two thousand five hundred (2,500) feet apart from any other digital billboard on the same road facing in the same direction of travel.
2. The new digital billboard structure shall be no higher than thirty (30) feet to the top of the sign structure or sign face from the ground level at the foot of the sign structure.
3. The new digital billboard structure shall only be located on one of the following roads, highways, or locations: I-85 or within one hundred (100) feet of I-85 and the Gateway Overlay Corridor Zoning District. However, no replacement billboard shall be located in the C-1 Zoning District or within the boundaries of any historic preservation district.
4. The new digital sign faces shall not exceed three hundred square feet (300 sf).
5. The messages on any digital sign face shall not change more frequently than once every ten (10) seconds.
6. Any digital sign shall abide by the brightness and luminance standards as are established from time to time for all digital signs that utilize lighting to display messages.
7. No digitally converted billboard (replacement billboards) shall be placed within any street right-of-way and no closer to the street right-of-way than the existing billboard.
8. Electrical wiring shall run underground from the power source to serve the digitally converted billboard.
9. The City, through appropriate personnel, may exercise its police powers to protect public health, safety and welfare by requiring emergency information to be displayed on digitally converted billboards. Emergency information includes, but is not limited to AMBER alerts, dangerous criminal alerts, fugitives from justice alerts, weather alerts and emergency management information. Upon notification, and at no cost to the City, the sign operator shall exclusively display the emergency alert for the period of one (1) hour. Thereafter, emergency alerts are to remain in rotation according to the designated issuing agencies protocols.

10. As part of the digital permitting process, the owner of a static billboard sign must identify in its application the following:

- (a) The location of the static billboard face to be replaced
- (b) The size of the static face to be replaced
- (c) The size of the digital billboard face being installed
- (d) The location of four (4) other billboard faces being removed