

ARTICLE VIII: SPECIAL REGULATIONS

Section 1. Accessory Structures

It is the intent of this Ordinance that accessory structures be permitted for uses that are reasonable and customary to the District and permitted use and shall not include or be used for human habitation. No accessory structure other than a permitted sign shall be erected in any required front yard. No accessory structure shall be allowed in a side yard.

Accessory structures shall not exceed twenty five (25) feet in height except as provided in Section 5 below; and shall not cover more than thirty (30) percent of any required rear yard, and shall be at least five (5) feet from the rear and side lot lines and ten (10) feet from any other structure on the same lot.

On any corner lot which adjoins another residential lot at the rear, no part of any structure within twenty-five (25) feet of the common lot line shall be nearer the side street lot line than the least depth of any front yard required for a dwelling on such adjoining lot along the side yard.

Private swimming pools constructed in a residence district as an accessory structure to a residence shall be located in the rear yard only, shall be constructed not closer than ten feet to the property line, and shall be enclosed by a protective wall, fence or similar type barrier of a minimum height of four feet with suitable locks on all gates and exits as required by other Codes adopted by the City.

Fallout shelters are permitted as principal or accessory uses and structures in any district, subject to the yard and lot coverage regulations of the district. Such structures may contain or be added to other structures, or may be constructed separately, and in addition to shelter use may be used for any principal or accessory use permitted in the district, subject to the district regulations on such use, but shall not be used for principal or accessory uses prohibited expressly or by implication in the district.

Section 2. Visibility at Intersections

To provide a clear view at intersections, there shall be an unobstructed triangular area at the junction of any two streets. No fence, marquee, vegetation or other obstruction to vision between the heights of two and one half (2.5) feet and fifteen feet shall be permitted within twenty (20) feet of the intersection.

For streets that intersect at an oblique angle; or, in cases where in the opinion of the Planning Commission there are unusual circumstances that require special consideration, the intersection shall be referred to the Building Official who shall recommend a triangular unobstructed area using the standards contained in the latest edition of the *Alabama Manual of Uniform Traffic Control Devices*.

Where a driveway intersects with a public street, an unobstructed triangular area measuring ten (10) feet from the intersection along the right-of-way and ten (10) feet from the intersection along the edge of the driveway.

Within the triangular areas defined above, nothing shall be planted, placed, erected, or allowed to grow that will interfere with visibility between a height of two and one half (2.5) feet and fifteen (15) feet above finished grade at the intersection of the two street rights-of-way and/or driveway edge.

Section 3. Fences, Walls, and Hedges

Fences, walls, and hedges may be erected, placed, grown, or maintained along a lot line of residentially zoned property, or adjacent thereto, to a height not exceeding eight (8) feet above the ground; except that no such fence, wall, or hedge located in a front yard or side yard on street shall exceed a height of four (4) feet. Where such lot line is adjacent to a non-residentially zoned property, fences, walls, or hedges may be erected, placed, grown, or maintained to a height not exceeding eight (8) feet, except as may be required for salvage, wrecking and junk yards.

Fences, walls, and hedges may be erected, placed, grown, or maintained along a lot line on any non-residentially zoned property to a height not to exceed eight (8) feet.

All fences shall require a building permit; except that no permit shall be required for a fence on land used for farming or forestry and located in the AGR Agriculture District.

Section 4. Principal Structure on a Lot

It is the intent of this Ordinance that there be but one main structure on any lot used for residential purposes plus any permitted accessory structures; also, that permitted accessory structures shall not include living quarters. The Building Official shall insure that any accessory structure is not used as living quarters or for any other improper purpose as would be prohibited by any applicable law, rule, regulation, code or Ordinance. If the Building Official finds or has cause to suspect an accessory structure is or will be used as living quarters or for some other improper purpose in violation of any law, rule, regulation, code or Ordinance, then approval shall not be given.

Section 5. Exceptions to Height Regulations

The height regulations set forth in Article IV do not apply to spires, belfries, cupolas, antennas, telecommunications towers, and water tanks; or to any ventilation structures, chimneys, or any other such facilities are not intended for human occupancy and that are normally required to be placed on the roof.

Section 6. Access to Structures

Every building erected or relocated shall be located on a lot abutting a public street, or having an access to a public street by way of an approved access easement or private street. All buildings shall be sited and arranged in such a way that they have safe and convenient access for servicing, fire protection, and required off-street parking.

Section 7. Major Recreational Equipment

Campers, travel trailers, or recreational vehicles may be stored in any district provided that they are parked in either the side or rear yards, or in a garage or accessory structure conforming to the requirements of this Ordinance; except that such vehicles shall not be stored in a side yard that is adjacent to a street. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use.

Section 8. Parking and Storage of Certain Vehicles

Automotive vehicles or trailers of any kind or type without current license plates, or which are inoperable or otherwise disabled for a period of five (5) consecutive days, shall not be stored or parked on any residentially zoned property, whether occupied as a residence or not, or on property used for residential purposes in a non-residentially zoned district other than in a completely enclosed building. For the purposes of this section, a vehicle shall be deemed inoperable or otherwise disabled if it is unable to operate on the streets and roadways of the State of Alabama in full compliance with the various provisions of the Code of Alabama, 1975.

Section 9. Manufactured Homes

- a. All manufactured homes, except as provided for in Article XI, shall be located in approved manufactured home parks regardless of whether or not such manufactured homes are occupied. Manufactured home parks shall be permitted only in a Manufactured Home Park (MHP) District in accordance with all provisions of this Ordinance.

- b. It shall be unlawful for any manufactured home to be parked within the corporate limits of the city for any purpose at a site other than a mobile home park complying with the provisions of this ordinance, unless the board of adjustment grants a special exception.
- c. A manufactured home may be temporarily parked and used as a bona fide construction office and the quarters of a lone night watchman at a construction site provided a permit is secured from the Building Official. The permit shall expire upon completion of the construction for which the permit is issued.
- d. Special exceptions may be granted by the Building Official for business use of trailers or manufactured buildings in a business zone upon showing catastrophic circumstances created by acts of God or casualty damages. Such special exceptions will be valid for a period not exceeding one year and are not transferable.

Section 10. Existing Single Family Dwellings in Commercial Areas

Any existing single family dwelling in an area zoned for commercial uses may be expanded up to a maximum of twenty-five (25) percent of the existing gross floor area of such dwelling, provided that the structure as expanded complies with the setback and site coverage requirements of the zoning district within which it is located. Only one such expansion shall be permitted.

Section 11. Corner Lots in Residential Districts

On any corner lot adjoining the rear of another lot which is in a residential district, no part of any structure shall be nearer the side street lot line than the least depth of any front yard required for a dwelling on such adjoining lot on such side street.

Section 12. Projections into Required Yards

The following projections into required yards may be allowed:

- a. Architectural features such as, but not limited to, chimneys, roof overhangs, or eaves may project up to two and one-half (2.5) feet, but shall not be closer than three (3) feet to any property line.
- b. Terraces, steps, uncovered porches and similar features that extend no more than three (3) feet above the ground may project into a required yard but shall be no closer than five (5) feet to any property line.
- c. Within residential districts, satellite dish antennas may be located only within a rear yard and shall be no closer to any property line than ten (10) feet, measured from the closest edge of the structure.

Such projections shall not be included in the calculation of required setbacks.

Driveways and sidewalks are exempt from the provisions of this Section.

Section 13. Home Occupations

All home occupations shall meet the following standards:

- a. A Home Occupation shall be permitted by right in districts indicated in Table 4-1 of Article IV.
- b. No persons other than members of the family residing on the premises shall be employed by the home occupation.

- c. The home occupation must clearly be secondary and incidental to the use of the dwelling unit as a residence. No more than twenty-five percent (25%) of total heated and ventilated floor area, up to a maximum of 500 square feet, shall be devoted to the home occupation.
- d. The appearance of the dwelling unit shall not be altered, nor shall the home occupation be conducted in any way that would cause the premises to differ from its residential character and that of the immediate neighborhood.
- e. The home occupation shall be operated in or from the existing dwelling unit. The existing dwelling unit shall not be enlarged to accommodate the home occupation; nor shall any accessory structure be built for the purpose of operating the home occupation.
- f. There shall be no outside display or storage of materials, goods, supplies, or equipment used in the home occupation; nor shall there be any sign advertising the home occupation.
- g. No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential area. Any need for parking generated by the home occupation shall be met off the street and other than in the required front yard.
- h. The operation of a home occupation shall not create any nuisance such as excessive traffic, on-street parking, noise, vibration, glare, odor, fumes, dust, heat, fire hazards, electrical interference or fluctuation in line voltage, or be present or noticeable beyond the property boundaries of the home occupation premises.

Any person desiring to operate a home occupation shall submit an application to the Building Official. The applicant shall present evidence of ownership of the property in question, or a signed and notarized letter from the owner authorizing the application. The Building Official shall have ten (10) days in which to act on an application.

No more than one home occupation shall be approved in any residential dwelling unit.

Action taken pursuant to this ordinance does not necessarily mean that other regulations, rules, covenants, deed restrictions or other matter would prohibit such action.

Final approval of a home occupation shall be contingent upon the applicant obtaining a valid business license from the City.

Section 14. Structures in Public Rights-of-Way

No private permanent building, fence, wall or other structure shall be placed or constructed within a public right-of-way or easement without prior approval by the City Council.

Section 15. Farm Animals

Horses, cattle, sheep, pigs, chickens or other farm animals are allowed only in the AGR District.

Section 16. Wrecking and Junk Yards

- a. No automobile wrecking yard, salvage yard or junkyard shall be established closer than three hundred (300) feet to an established residential district.
- b. All outdoor storage of salvage and wrecking operations shall be completely contained within a fence or wall of not less than six (6) nor more than ten (10) feet in height. Such fence shall be a privacy fence of panel weave, brick, wood, or plant material designed and erected to completely screen on-site material and activity from view from the adjoining public streets.
- c. The storage of wrecked automobile, junk, or salvaged materials shall not exceed six (6) feet in height.

Section 17. Cemeteries

All cemeteries shall have direct access to a public street with ingress and egress designed to minimize traffic congestion; and shall be established on a site not less than ten (10) acres in area.

Section 18. Front Yard for In-fill Lots

The front yard requirements of this Ordinance shall not apply on vacant lots where the average depth of existing front yards on developed lots within one hundred (100) feet on either side and within the same block and zoning district is less than the minimum front yard required by this Ordinance. In such cases the required front yard depth shall not be less than the average front yard on the existing developed lots.

Section 19. Signs and Outdoor Advertising

The purpose of these provisions, as may be modified by Article V, Section 1, is to regulate signs and outdoor advertising displays, to promote the use of signs to assist the public in its orientation within the City, to express the history and character of the City, to prevent the degradation of the aesthetic qualities of the City, and to promote the public safety by limiting the clutter of signage and its tendency to distract drivers of vehicles.

- a. **Permit Requirements.** All signs shall be considered only as accessory uses to a permitted use. All signs must be permitted and are subject to permit requirements, inspection, enforcement, penalties, and appeals procedures as set forth in the City's building codes. Such codes shall also apply to the maintenance of signs, and to the determination of whether or not a sign is safe. Permitted signs include attached signs, building wall signs, canopy signs, ground signs, and on-premise signs.
- b. **Location Limitations.** Signs shall not be located in, encroach upon; or be located, constructed, or lighted in such manner as to constitute a hazard to the health or safety of persons on any public right-of-way. At intersections, signs shall not obstruct the view of traffic entering the intersection as defined in Article VIII, Section 2.
 1. **Subdivision Signs.** Each single family and duplex residential subdivision may be permitted one (1) sign at each of the public street entrances to the subdivision; each such sign shall not to exceed twelve (12) square feet of sign copy area, nor to exceed six (6) feet in height.
 2. **Apartments, group dwellings, and manufactured home parks** may be permitted one (1) indirectly illuminated sign per abutting street; each such sign shall not exceed eighteen (18) square feet of sign copy area; not to exceed six (6) feet in height.
 3. **Other signs in residential areas** shall be restricted to one (1) sign of a temporary nature advertising the sale or rent of the property on which it is placed, not to exceed six (6) square feet in area.
 4. **Commercial Building Signs.** On-premises signs are allowed as follows in all commercial, business and manufacturing zones.
 - a. Only one (1) free standing sign per premises and street front is allowed. This sign may not exceed two (2) square feet in sign area for each foot of main street frontage. If the property is a shopping center only one (1) free standing sign is allowed per street front. Where the premises is located on a corner or has more than one (1) main street frontage, one (1) additional sign of equal size will be allowed on the additional frontage.
 - b. All free standing signs shall be located no less than ten (10) feet from the public right-of-way line. Signs located near intersections of public streets or public streets and driveways shall comply with Article VIII Section 2.

- c. Wall and canopy signs shall not exceed two (2) square feet in sign area for each liner foot of the tenant's space frontage.
 - d. The maximum permitted height for any on-premises sign shall not exceed forty five (45) feet above grade or the grade of the frontage street whichever is less.
5. **Off-Premises Signs. (Billboard)** In addition to any regulation applying to signs in general, the following regulations shall apply to off-premises signs.
- a. No billboard shall be located closer than five hundred (500) feet to any other billboard on the same side of the street. The distance shall be measured along the nearest edge of the pavement at points from the center of the billboard supports.
 - b. A minimum of fifteen (15) feet from the lowest point of the sign to grade. A maximum height of fifty (50) feet above grade.
 - c. Only single faces (no side by side or stack units) allowed.
 - d. Maximum square footage of four hundred (400) square feet.
 - e. Billboards shall be permitted in all Business, Commercial and Manufacturing zones.
6. **Additional Regulations-Off-Premises Signs. (Billboards).** Notwithstanding the foregoing, in addition to any regulation applying to signs in general, the following regulations shall apply to off-premises signs and to the extent the following conflict with provisions in paragraph 5 above, the following shall govern.
- (a) A moratorium is hereby imposed upon the processing or issuance of any permit applications as to any newly located off-premise signs (billboards). This moratorium will remain until December 31, 2016, unless extended, reduced or terminated by subsequent act, Ordinance, and/or Resolution by the City Council. If no such action is taken by the City Council by December 31, 2016, the moratorium shall automatically extend and remain in place until further action of the City Council.
 - (b) For purposes of this Ordinance, a "conforming" billboard sign shall mean an existing outdoor, off-premises advertising structure that meets all requirements of Article VIII Section 19 and Article V Section 1 of the Zoning Ordinance referenced in (a) above. No new outdoor off-premises advertising permits shall be given after the date of enactment of this Ordinance.
 - (c) All billboard signs shall be maintained with no "open faces" meaning that said billboards shall have panels installed and attached with smooth surfaces and no torn or tattered edges hanging loosely. No structural members other than the pole shall be exposed unless approved in advance and in writing by the Building Official.
 - (d) Conforming billboard signs within five hundred (500) feet of intersecting state highways, may be converted to accommodate electronic, digital, or tri-vision technology (referred to collectively sometimes as "digital displays"), provided that any such conversion must be approved in advance, in writing, by the Building Official and provided the requirements and regulations of the Zoning Ordinance referenced in paragraph (a) above are met, as such other requirements and regulations shall remain in full force and effect. Spacing between structures with digital displays, whether single face or back to back, must be a minimum of a one thousand (1,000) foot radius. However, no conversion of any conforming billboard signs to digital or tri-vision technology shall be allowed on Highway 248 (Rucker Boulevard/Glover Avenue).
 - (e) Billboards located on Highway 84 Bypass shall be a maximum of 450 square feet per face, not including structural elements and skirts. If a back to back sign, only one (1) face will be used to determine square footage. Billboards located on Rucker Boulevard/Glover Avenue (Highway 248) shall be a maximum of 300 square

feet not including structural elements and skirts. If a back to back sign, only one (1) face will be used to determine square footage.

(f) Only single face or back to back billboards are allowed. No side by side or stacked units are allowed.

(g) All billboards must be a minimum of fifteen (15) feet from the lowest point of the sign to grade. They must be of all metal, single pole construction, with the exception of faces and skirts; subject, however, to the following: If any all embellishments or pole coverings are requested, the applicant must obtain prior approval, in writing, by the Building Official. Billboards shall have a maximum fifty (50) foot overall height.

(h) In the event a conforming or nonconforming billboard (meaning any billboard not conforming to the City's Zoning Ordinance) sign is destroyed by some natural disaster or other casualty, or must be removed for any reason, the remnants shall be promptly cleared and removed within thirty (30) days. In any of the above cases the billboards may be rebuilt at the same location or another location as long as it then meets all of the conditions of this Ordinance, other City Ordinances as referenced above or as may apply, and any rule, regulation of law of any other governmental entity having jurisdiction over such; provided, however, the rebuild/relocate permit shall only be issued to the same permit holder or its assignee.

(i) Any off-premises billboard signs or non-premises signs that are in the public view from public streets, roads and highways, shall not include material thereon which depicts sexually suggestive matter which the average person, applying contemporary community standards, would find, taken as a whole, to appeal to the prurient interest of minors and offensive to the prevailing standards in the adult community with respect to what is suitable for minors and lacking serious literary, artistic, political, or scientific value for minors.

(j) As to all on-premises signs as referenced herein, which were non-conforming as to said Ordinance on the date of enactment, such shall be grand-fathered in and will not require removal on the basis of size or height. However, all such non-conforming signs shall be properly maintained as referenced in said Ordinance and shall otherwise be required to comply with the codes of the City except as noted as to location, height and square footage. This shall include, but is not limited to, the obligation that the owners of said signs shall not keep open faces on said signs and must keep such on-premises signs properly secured, painted where applicable and in good structural and aesthetic appearance. Moreover, it is specifically mandated that all on-premises signs as referenced herein, which are in the public view from public streets, roads and highways, shall not include material thereon which depicts sexually suggestive matter which the average person, applying contemporary community standards, would find, taken as a whole, to appeal to the prurient interest of minors and offensive to the prevailing standards in the adult community with respect to what is suitable for minors and lacking serious literary, artistic, political, or scientific value for minors.

(k) Violations of this section may result in the following: Suspension or revocation of sign permit by City Council which shall result in the owner or lessee of the sign removing the same; actions at law or equity to prevent or remedy said violation; and/or offender being prosecuted in the Enterprise municipal court for a misdemeanor offense subject to up to a \$500.00 fine and up to six (6) months in jail.

7. **Portable Signs.** In addition to regulations applying to signs, including the requirement for a permit, the following shall apply:

- a. Portable signs, including banner shall comply with the same minimum setback and site distance requirements as applied to freestanding signs.
- b. No portable sign may be illuminated by or contain flashing lights that imitate those of traffic signals or emergency vehicles.
- c. Portable signs shall not be used for on-premise advertising and shall not be used as billboards (off-premise signs).
- d. Portable signs shall be limited to one (1) per business.

- e. Portable signs shall be permitted in all Business, Commercial and Manufacturing zones.

Section 20. Landscape Requirements

Site Landscape Requirements. All development sites within the B-3 & PBD zones shall meet the requirements of this section:

- a. A fifteen feet buffer yard shall be installed along the front property line and any property line abutting a public street. Each such buffer yard shall contain two (2) understory trees and three (3) shrubs per every one hundred (100) feet of property line abutting a public street; however this shall not be construed as requiring the planting of trees and shrubs on 100 foot centers.
- b. All building sites abutting a residential zone or property used as residential on the rear or side yards shall be screened by a buffer planting strip not less than twenty (20) feet in width. Any required yard shall be counted as part of such buffer planting strip. Buffer planting strips shall comply with the following:
 - 1. *Landscaping:* Screen planting shall be provided in sufficient density and of sufficient height (but in no case less than eight feet high) to afford protection to the residential area from the glare of lights, from blowing paper, dust and debris, and from visual encroachment, and to reduce the transmission of noise. Screen planting shall be maintained in a clean and neat condition. An eight (8) foot blind fence may be used at the discretion of the Planning Commission in exception to the dense vegetation.
 - 2. *Use of Land:* No part of the buffer planting strip shall be used for any purpose other than screen planting.
 - 3. *Screen Walls:* In the case of a lot of record on the effective date of the ordinance from which this chapter is derived, such lot being so unusually small that provisions of the 20-foot buffer planting strip precluded the reasonable use of the property for the uses permitted in the district in which the lot is located, upon approval of the planning commission, and subject to such conditions as it may prescribe as necessary to achieve the purpose of the screen planting, a screen wall of permanent material eight feet high may be substituted for the screen planting. In such case, the width of the buffer planting strip may be reduced to no less than 15 feet.
- c. Dumpsters and all other refuse collection devices shall be located behind the front plane of the principal structure and shall be fully screened from the public view.

Tree Protection during Construction. Every attempt shall be made to protect and save existing trees on a development site, except for those trees removed to allow for the erection of the building and/or improvements. Whenever possible, a tree or group of trees that are being preserved must have a barrier constructed to the drip line of the tree or group of trees, given to specific considerations.

ARTICLE IX: OFF-STREET PARKING AND LOADING REGULATIONS

Section 1. General Provisions

- a. The minimum size for all required off-street parking spaces shall be as defined in this Ordinance. Spaces shall be delineated by striping or other similar means, which clearly indicate their location.
- b. All required parking spaces, including driveways and maneuvering areas, shall be improved with a hard surface permanent type of pavement.
- c. Except as provided in this Article, all required parking spaces shall be provided on the same lot or development site for which they are required. Location of required parking on adjoining property or across a public right-of-way is prohibited.
- d. No off-street parking spaces are required for nonresidential uses in the B-2 Downtown Business District, except for Assembly and Educational occupancy type buildings.
- e. References to “employees on the largest work shift” means the maximum number of employees present at the facility regardless of the shift or time period, and regardless of whether such employees are full or part time. The largest work shift may be a day of the week, one of several daily shifts; or, in the case of a restaurant, the lunch hour or the evening dinner period.
- f. The term “capacity” as used here means the maximum number of persons that can be accommodated by the facility as determined by its design and purpose, or by the building and fire code regulations, whichever is greater.

Section 2. General Parking Requirements

The following general requirements shall apply unless superseded by a specific requirement set forth in Section 3:

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

Agricultural Support Uses: One (1) space per 750 square feet of gross floor area.

Commercial Retail and Service Uses: One (1) space per 250 square feet of gross floor area.

Commercial Entertainment Uses: One (1) space per 250 square feet of gross floor space; for uses exceeding 100,000 square feet, one (1) space for every 300 square feet of gross floor area.

Commercial Recreation Use: One (1) space per four patrons based on maximum capacity.

Commercial Support Uses: One (1) space per 750 square feet of gross floor area.

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

Industrial Uses: One (1) space per employee on the largest work shift, plus one (1) space for company vehicle normally stored on the premises.

Institutional Uses: One (1) space per four (4) patrons/residents based on maximum capacity.

Office Uses: One (1) space per 250 square feet of gross floor area.

Outdoor Recreation Uses: One (1) space per four (4) patrons at maximum capacity

Public Service Uses: One (1) space per employee on the largest work shift, plus one (1) space per company vehicle normally stored on the premises.

Section 3. Parking Requirements for Specific Uses

Airport: One (1) space for every four (4) aircraft that can be parked or stored at the facility, whether indoors or outdoors; plus one (1) space for each seat in waiting area and restaurants; plus one (1) space for each 250 square feet of office and other administrative and support uses.

Amusement Center: One (1) space for every 100 square feet of gross floor area.

Assisted Living Facility: One (1) space per dwelling unit.

Bank: One (1) space per 300 square feet gross floor area, plus four (4) spaces off-street waiting spaces per drive-through lane.

Beauty and Barber Shops: two (2) spaces per chair, or one (1) space per 150 square feet gross floor area, whichever is larger.

Bed and Breakfast Inn: One (1) space per guest room, plus one (1) space.

Boarding House: One (1) space per resident, plus one (1) space.

Bowling Alley: Four (4) spaces per lane, plus any additional spaces as required for restaurant facilities, game rooms, and other accessory uses on site.

Car Wash, Automated: One (1) space per employee on the largest shift, but no less than two (2) spaces total; plus a linear area for each wash stall large enough to accommodate four (4) cars.

Car Wash, Self Serve: One (1) stacking space per stall.

Carpet Store: One (1) space for every 750 square feet of gross floor area.

Community/Recreation Center: One (1) space per 250 square feet of gross floor area.

Contractor's Storage Yard: One (1) space per 250 square feet of office space; plus one (1) space per 1,000 square feet of indoor storage area; and plus one (1) space per 2,000 square feet of outdoor storage area.

Convenience Store and/or Self Service Gas Station (No vehicle Repair): one (1) space per 150 square feet of gross floor area. In no case shall a required parking space conflict with vehicles being fueled or awaiting fueling.

Day Care Center or Nursery School: One (1) space per teacher and employee on the largest shift; plus one (1) off-street parking or loading space per twelve (12) children. Maximum enrollment and number of employees shall be noted on the site plan. Parking or loading spaces designated for loading and picking up children shall be located such that there is direct access into the facility without crossing streets or driveways.

Drug and Alcohol Treatment Center: One (1) space per every two (2) beds, and one (1) space per staff member, based on State licensing requirements and maximum design capacity.

Funeral Home: One (1) space per four (4) seats in chapel.

Furniture Store: One (1) space for each 750 square feet of gross floor area.

Golf Courses: 45 spaces per nine holes. Parking shall also be provided for accessory uses such as pro shops, restaurants, driving ranges at the rate of 50 percent of their normal requirements.

Hospital: Two (2) spaces per patient bed, plus two (2) spaces per emergency room examination table or bed, plus one (1) space per employee on the largest shift.

Hotel, Motel: One (1) space per guest room, plus one (1) space for 500 square feet of banquet or meeting room floor area. Parking shall be provided for other accessory uses such as restaurants or bars at the rate of 50 percent of normal requirements.

Junkyards: One (1) space per 8,000 square feet of gross floor area.

Kennel: A minimum of three (3) spaces, or one (1) space per 500 square feet, whichever is greater.

Laundromat: One (1) space per every two (2) washing and drying machines.

Lumberyard: One (1) space per 500 square feet of gross floor area, plus one (1) space per 1,500 square feet of outdoor storage/display area.

Machinery/Equipment Sales: One (1) space per 400 square feet of gross floor area, plus two (2) spaces per service bay, plus one (1) space per 2,500 square feet of outdoor display/storage area.

Mini-warehouse: Two (2) spaces for employees. Alleys separating rows of storage units shall be wide enough to allow two (2) cars to pass each other.

Movie Theater: One (1) space per four (4) seats of maximum design capacity. Where a theater is part of a shopping center or is on the same development site as a shopping center, the required parking may be reduced by 50 percent.

Nursing Home: One (1) space per three (3) rooms.

Parcel Delivery Service: One (1) space per 750 square feet of gross floor area.

Place of Worship: One (1) space per four seats based on maximum capacity of the sanctuary or principal place of worship. Up to 50 percent of the required spaces may be grassed rather than paved. All such unpaved spaces shall be shown on a site plan and designed for efficient traffic circulation using tire stops and other appropriate measures. Alternatively, the on-site parking requirement may be reduced by not more than fifty (50) percent if the place of worship can use available spaces in a public or private parking lot to meet the parking requirement: and provided that such off-street spaces are available without charge and with the permission of their owners.

Plumbing and Heating Supply: One (1) space per 750 square feet of gross floor area.

Printing and Publishing Plant: One (1) space per 750 square feet of gross floor area.

Private Club: One (1) space per four (4) persons based on maximum capacity of the facility.

Public Assembly Hall: One (1) space per four (4) seats at maximum design capacity.

Radio/Television Station: One (1) space per 1,000 square feet of gross floor area.

Recreational Vehicle Park: One (1) space per recreational vehicle, plus one (1) space per 250 square feet of gross floor area of permanent habitable space on the site.

Restaurant, Fast Food: One (1) space per 100 square feet of gross floor area. Sufficient space on-site shall be provided to accommodate queuing vehicles. Such space shall at a minimum provide capacity for five (5) vehicles from the start of the stacking lanes to the order board; two (2) vehicles from the order board to the service window; and two (2) spaces from the service window to the exist to a public right-of-way.

Restaurant, Standard: One (1) space per four (4) patron seats, or one (1) space per 150 square feet of gross floor area, whichever is greater.

School, Elementary: One (1) space per each twenty (20) students based on design capacity, plus one (1) space for every 400 square feet of office space.

School, Junior High: One (1) space for every fifteen (15) students based on design capacity, plus one (1) space for every 400 square feet of office floor space.

School, Senior High: One (1) space for every ten (10) students based on design capacity, plus one (1) space for every 400 square feet of office space.

School, Commercial: One (1) space per two (2) students based on the design capacity of the building.

Shopping Center: One (1) space per 250 square feet of gross leasable area. In an enclosed shopping mall, common pedestrian areas except for food courts may be excluded from the calculation of gross floor area. Shopping centers with over 400,000 square feet of gross leasable area shall have one (1) space per 300 square feet of gross floor area.

Skating Rink, Roller Rink, etc.: One (1) space for every four (4) patrons at maximum capacity.

Taverns, Dance Halls, Nightclubs, and Lounges: One (1) space per every 75 square feet of gross floor area.

Telecommunications Tower: One (1) space to accommodate a maintenance vehicle for an unoccupied structure. Occupied structures shall comply with the requirements for public service uses.

Theaters and Auditoriums: One (1) space per four (4) patrons based on maximum capacity.

Truck Terminal: One (1) space per truck normally parked on the premises, plus one (1) space per every 500 square feet of office space.

Warehouse: One (1) space per employee on the largest shift, plus one (1) space per company vehicle normally stored on the premises.

Vehicle Rental: One (1) space per every 400 square feet of gross floor area.

Vehicle Repair and Maintenance Services: One (1) space per every 400 square feet of office and indoor display area, plus one (1) space per service bay.

Vehicle Sales and Service: One (1) space for every 500 square feet of office and indoor display area, plus one (1) space per 2,000 square feet of outdoor display area, and one (1) space per service bay.

Section 4. Off-street Loading requirements

All nonresidential structures and uses shall provide and maintain adequate off-street space for the loading and unloading of materials or goods, and for delivery and shipping, so that such operations can be accomplished without encroaching upon or otherwise interfering with the use of public streets, alleys and sidewalks by pedestrians and vehicles.

Each retail store, storage warehouse, wholesale establishment, industrial plant or factory, freight terminal, market, restaurant, funeral home, laundry or dry cleaning plant, or similar use shall provide off-street loading space as follows:

- a. Less than 8,000 square feet of gross floor area: no off-street loading space required unless the Planning commission determines that the specific use requires such space.
- b. 8,000 but less than 20,000 square feet of gross floor area: one (1) off-street loading space is required.

- c. 20,000 but less than 60,000 square feet of gross floor area: two (2) off-street spaces are required.
- d. Over 60,000 square feet of gross floor area: two (2) off-street spaces are required, plus one (1) additional space for every 50,000 square feet of gross floor area or fraction thereof over 60,000 square feet.

For each auditorium, convention hall, exhibit hall, hotel, office building, stadium, sanitarium or similar use, shall provide off-street loading space as follows:

- a. Less than 10,000 square feet of floor space: no off-street loading space is required unless the Planning Commission determines that the specific use requires such space.
- b. 10,000 but less than 40,000 square feet of gross floor space: one (1) off-street loading space is required.
- c. Over 40,000 square feet of floor space: one (1) off-street loading space plus one (1) additional space for every 50,000 square feet or fraction thereof over 40,000 square feet.

No area provided to meet off-street parking requirements shall be used for off-street loading purposes.

Joint or combined off-street loading space for two (2) or more buildings on the same lot can be provided as long as the amount of such combined off-street space is equal in size and capacity to the combined requirements of the several buildings to be served.

Plans for buildings or uses requiring off-street loading facilities as stipulated above shall clearly indicate the location, dimensions, clearances and access of such required off-street loading facilities.

ARTICLE X: NONCONFORMITIES

Section 1. General Provisions

It is the purpose of this Section to provide for the regulation of legally nonconforming lots, structures, and uses; and to specify the circumstances and conditions under which such nonconformities can be continued, expanded, or modified; and under which they shall be terminated.

The zoning regulations established by this Ordinance are designed to promote and protect the public health, welfare, and safety by implementing the City's developmental policies. These policies encourage the grouping of compatible and related land uses. It is consistent with the regulations prescribed by this Ordinance that those nonconformities that adversely affect orderly development and the value of nearby property be controlled. Such controls also take into account the vested interests of the owners of nonconforming properties, and the extent to which such properties have any actual or potential adverse impacts upon the surrounding area.

To achieve these purposes, this Section distinguishes among nonconforming lots, nonconforming structures, nonconforming uses, and between major and minor nonconformities. Different regulations are applied to these categories on the basis of their actual or potential adverse impact due to incompatibility with the City's developmental policies and the regulations contained in this Ordinance.

Section 2. Definition of Nonconformities.

For the purposes of this Article the following definitions shall apply:

Nonconforming Lot of Record. Any vacant lot legally established prior to the effective date of this Ordinance or subsequent amendment thereto, which does not fully comply with the dimensional regulations of the zoning district in which it is located.

Nonconforming Developed Lot. Any lot containing a building, structure, and/or activity legally established prior to the effective date of this Ordinance or subsequent amendment thereto, but which does not fully comply with the lot width or area or other dimensional regulations of the zoning district in which it is located as specified in this Ordinance.

Nonconforming Structure. Any building or structure, other than a sign, legally established prior to the effective date of this Ordinance or subsequent amendment thereto, but which does not fully comply with the yard, height or other dimensional regulations of the zoning district in which it is located as specified in this Ordinance.

Nonconforming Use. An activity using land, buildings, and/or structures for purposes, which were legal prior to the effective, date of this Ordinance or subsequent amendment thereto, but which does not fully comply with the use regulations for the zoning district in which it is located as specified in this Ordinance.

Nonconformity, Minor. Any property comprising a nonconforming developed lot and/or nonconforming structure, but which is used for an activity which is fully in compliance with the regulations for the zoning district in which it is located as specified in this Ordinance.

Nonconformity, Major. Any property comprising a nonconforming developed lot and/or a nonconforming structure, or a conforming developed lot and/or conforming structure which is used for an activity that is not fully in compliance with the regulations for the zoning district in which it is located as specified in this Ordinance.

Section 3. Nonconforming Lots of Record.

Nonconforming lots of record may be developed for any use permitted in the zoning district in which they are located provided such development conforms to all other regulations in this Ordinance or a variance from such regulations is granted by the Board of Adjustment to permit such development.

Section 4. Minor Nonconformities.

Minor nonconformities may be modified, enlarged, and/or expanded provided that such modification, enlargement, or expansion conforms to all other regulations in this Ordinance, unless the Board of Adjustment grants a variance from such regulations.

Section 5. Major Nonconformities.

A major nonconforming use may be changed to another nonconforming use provided the new use is in the same or a lesser intensity of use classification as the original use.

A major nonconforming use shall not be enlarged within a structure, nor occupy a greater area of land, than it did at the effective date of this Ordinance or subsequent amendment thereto.

A structure containing a major nonconforming use shall not be moved to any portion of the lot other than that occupied at the effective date of this Ordinance or subsequent amendment thereto.

A major nonconforming use shall not be altered, enlarged, or intensified in any way that increases its nonconformity, but may be altered or reduced to decrease its nonconformity.

A major nonconforming use which changes to a permitted use within the district in which it is located, shall not thereafter revert to a nonconforming use.

If a major nonconforming use is damaged in any manner to the extent that the restoration costs would exceed sixty (60) percent of the value of that use immediately before such damage occurred, or is discontinued and remains vacant for one year or more, any subsequent use of that lot and/or structure shall be in full compliance with the regulations governing the district in which it is located as specified in this Ordinance.

Section 6. General Provisions.

The following provisions shall apply to all nonconformities:

Except as otherwise provided in this Article, any nonconforming lot, structure or use lawfully existing on the effective date of this Ordinance, or subsequent amendment thereto, may be continued so long as it remains otherwise lawful.

Nonconforming status runs with the land.

Nothing in this Article shall be interpreted to prohibit routine maintenance, restoration of a structure to a safe condition, internal renovations and modifications, and external improvements, which do not increase in scope or scale the nonconformity of the structure.

Nothing in this Article shall be deemed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition; provided that such restoration of such structure is not otherwise in violation of the provisions of this Ordinance.

No nonconformity shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

Any other provision of this Article to the contrary notwithstanding, no use or structure which is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have ceased or terminated, unless it shall thereafter conform to all the regulations of this Ordinance.

The burden of establishing the nonconforming status of any structure or use under the terms of this Article in all cases shall be upon the owner of such nonconformity and not upon the City.

ARTICLE XI: BOARD OF ADJUSTMENT

Section 1. Establishment and Membership

The Board of Adjustment heretofore established is hereby continued, and its members shall be appointed and vacancies filled in accordance with Sections 11-52-80 and 11-52-81 of the Code of Alabama, 1975, as amended. All members of the Board shall be citizens and residents of the City.

Section 2. Meetings, Procedures and Records

Meetings of the Board shall be held at the call of the chairman at such times and places as the board may determine. The chairman, or in the absence of the chairman the co-chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall adopt and publish its own rules of procedure and keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact; and shall keep records of its examinations and of other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

Section 3. Powers and Duties

The Board, in appropriate cases and subject to appropriate conditions and safeguards, shall have the following powers:

Interpretation of Boundaries. To hear and decide upon interpretation of the boundaries of districts established and shown on the map in accord with criteria specified in Article III.

Appeals. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by a City official, other than the City Council, acting under the authority of this Ordinance.

Variations. To hear and decide appeals for a variance from the provisions of this Ordinance where owing to special conditions a literal enforcement of such provisions would result in unnecessary hardship as defined in Section 5 of this Article, but where the spirit of the Ordinance can be observed and substantial justice done.

Special Exceptions. To hear and decide special exceptions upon which the Board is required to act for uses as shown in Table 4-1 in Article IV and special exceptions regarding manufactured home as provided in Article VIII

Section 4. Administrative Appeals

Appeals to the Board of Adjustment may be taken to the Board of Adjustment by any person aggrieved or affected by any provision of the Ordinance or by any decision of the Building Official relating the provisions of this Ordinance. Any such appeal shall be filed with the Building Official within fifteen (15) days of the date of the action being appealed. The Building Official shall forthwith transmit to the Board papers constituting the record upon which the action appealed was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Official certifies to the Board after the notice of the appeal has been filed, that by reason of facts cited in such certification a stay would, in the Building Official's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record.

All appeals shall be filed in writing on forms prescribed by the Board and made available by the Building Official.

The Board shall select a reasonable time and place for hearing the appeal. At least fifteen (15) days prior to the scheduled Board hearing the Building Official shall give written notice of the appeal to all adjacent property owners. Such notice shall be deemed given when deposited in the United States mail, first class postage prepared, addressed

to such property owners at their addresses submitted with the appeal. The notice shall state the name of the appellant, the location of the property, the decision of the Building Official, which is being appealed, and the time, date, and location of the Board hearing.

The Board may affirm, reverse wholly or in part, or modify the Building Official's decision, order, or determination as in its opinion ought to be done, and to that end shall have all the powers of the Building Official.

Section 5. Variances

Any property owner may file an application for a variance from the requirements of this Ordinance where it is claimed that, by reason of exceptional narrowness, shallowness, or shape or by reason of other exceptional topographic conditions, or other extraordinary and exceptional situations or conditions of such piece of property existing at the time of the adoption of this Ordinance, the strict application and literal enforcement of the provisions of this Ordinance would result in peculiar, exceptional, undue, and unnecessary hardship upon such owner.

It is the intent of this Ordinance that variances be used only to overcome some physical condition of a parcel of land, which poses a practical difficulty to its development and prevents its owner from using the property in conformance with the provisions of this Ordinance. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the land.

An application for a variance shall be filed with the Building Official or Secretary of the Board at least thirty (30) days before the scheduled hearing date before the Board. The property owner or the authorized agent of the owner on a form made available by the Building Official shall file the application. At least five (5) days prior to the scheduled hearing of the Board, the Building Official shall give written notice of the application to all adjacent property owners. Such notice shall be deemed to be given when deposited in the United States mail, first class postage prepared, addressed to such property owners at their addresses as submitted with the application. Such notice shall state the name of the applicant, the location of the property, the nature of the variance requested and the applicable sections of this Ordinance, and the time, date, and location of the hearing.

The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. In particular, the applicant shall establish and substantiate that the variance, if granted, will conform to all the requirements and standards listed below:

- a. The granting of the variance will not permit the establishment of a use that is not otherwise permitted in the district in which the property is located.
- b. There must be proof of unique and special circumstances and conditions, fully described in the application, applicable to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the vicinity, and which circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of reasonable use of such land or buildings.
- c. There must be proof of unnecessary hardship. It must result from the application of this Ordinance. It must be suffered directly by the property in question, and evidence of other variances granted under similar circumstances shall not be considered. It is not sufficient proof of hardship to show that greater value or profit would result if the variance were granted. Furthermore, the hardship claimed cannot be self-created; nor can it be established on this basis by one who purchases the property with or without knowledge of the restrictions.
- d. The granting of the variance will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.
- e. The granting of the variance will not confer upon the applicant any special privilege that is denied by this Ordinance to other land, structures, or buildings in the same zoning district.

- f. The granting of the variance is necessary for the reasonable use of the land or building and the variance as requested is the minimum variance that will accomplish this purpose.
- g. The granting of the variance shall be in harmony with the general purpose and intent of the regulations imposed by this Ordinance on the district in which the property is located, and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The Board may prescribe any safeguards or conditions that it deems necessary to secure substantially the objectives of the regulations or provisions of this Ordinance to which the variance applies.

Section 6. Special Exceptions

All uses permitted by special exception as listed in Article IV shall require the submission of an application to the Board of Adjustment. Such application shall be filed with the Building Official at least thirty (30) days before the scheduled hearing date before the Board of Adjustment. The application shall be filed by the property owner or the authorized agent of the owner on a form made available by the Building Official.

At least five (5) days prior to the scheduled hearing of the Board of Adjustment, the Building Official shall give written notice of the proposed special exception to all adjacent property owners. Such notice shall be deemed given when deposited in the United States mail, first class postage prepared, addressed to such property owners at their addresses as submitted with the application. Such notice shall state the name of the applicant, the location of the property, the proposed use, and the time, date and location of the Board's hearing.

The Board of Adjustment shall review the application for compliance with this Ordinance and all other applicable codes and Ordinances of the City. In particular the Board shall determine that satisfactory provisions have been made concerning the following, among other considerations of this Ordinance:

- a. Access to and from the property and the proposed structure and/or uses, with particular attention to vehicular and pedestrian safety and convenience, traffic flow and control, and emergency access.
- b. The location and accessibility of off-street parking and loading areas.
- c. The location and accessibility of refuse and service areas and their potentially adverse affects upon surrounding properties.
- d. The screening and buffering of potentially adverse views and activities from surrounding properties.
- e. Control of noise, glare, odor, surface water runoff, and other potentially disturbing impacts upon surrounding properties.
- f. The availability, location, and capacity of utilities.
- g. The location and scale of signs and lighting with particular reference to traffic safety, glare, and visual compatibility with surrounding properties.
- h. The bulk, density, and lot coverage of structures, and yards and open areas, with reference to their compatibility with the character of the surrounding area.

The Board may impose such conditions for approval that it deems necessary in the particular case to protect the public interest and the intent of the Comprehensive Plan and this Ordinance in relation to the items listed above and as may otherwise be reasonably necessary. Such conditions shall apply to the land, structure, and use for which the special exception is granted and not to a particular person. Violations of conditions lawfully attached to any special exception shall be deemed to be violations of this Ordinance.

The board of adjustment may also grant special exceptions to allow the location and usage of a manufactured home for human habitation in any zoning district of the city permitting residences. Applicants for such special exception shall apply in writing showing justification and shall provide a list of all adjacent property owners showing mailing addresses as well as a scale drawing of the proposed site with the desired manufactured home location shown.

Such special exception may be granted only if all of the following conditions are met:

- a. Such manufactured homes must be for the use of the property owner or the property owner's family, to include in-laws, and are not to be rented or leased to any other person or persons.
- b. The property owner must first demonstrate extenuating circumstances such as family hardship, practical difficulty, economic reasons deemed to be acceptable by the board of adjustment.
- c. Special exceptions may be granted for any period of one to five years. At the termination of the granted period, the property owner must either remove the manufactured home from this location, or apply for another special exception.
- d. Such special exceptions are not transferable. If there is a change of land ownership, the new property owner must apply for a new special exception if desired.
- e. Before granting or denying any such request the board of adjustment, after conducting a public hearing, shall consider the justifications or circumstances involved as well as the objections or lack of objections of adjacent property owners, and the possible negative effects on neighborhood property values or qualities of life.

The Board of Adjustment may also grant special exceptions for business use of a manufactured home in a business zone upon showing of catastrophic circumstances created by Act of God or casualty damage. Such special exceptions will be valid for a period not exceeding one year and are not transferable.

Section 7. Abatement of Nuisance

The board of adjustment may require the conduct of any use, conforming or nonconforming, which results in unreasonable noise, smoke, gas, vibration, fumes, dust, fire, radio interference, or explosion hazard or nuisance to surrounding property to be modified or changed to abate such hazard to health, comfort, and convenience. The board of adjustment may direct the Building Official to issue an abatement order, but such order may be directed only after a public hearing by the board, notice of which shall be sent by registered mail to the owners and/or operator of the property on which the use is conducted in addition to due notice or advertisement in a newspaper of general circulation. A hearing to consider issuance of an abatement order shall be held by the board of adjustment either upon petition signed by any person affected by the hazard or nuisance or upon the initiative of the board. An abatement order shall be directed by the board of adjustment only upon reasonable evidence of hazard or nuisance and such order shall specify the date by which the hazard or nuisance shall be abated.

Section 8. Re-hearings

All decisions rendered by the Board shall be final and binding upon all parties. No appeal of an administrative decision or decision on an application for a variance or a special exception shall be reheard, and no further application shall be accepted once a decision has been rendered except under one or more of the following conditions:

- a. New evidence or information pertinent to the request has been discovered which was not available to the applicant at the time of the original hearing.
- b. The decision resulted from an error in procedures required by this Ordinance or State law and made by the Board, the Building Official, or any other City Officials.

- c. The decision resulted from an error in substantive law under the provisions of this Ordinance or the Code of Alabama, 1975, as amended.

Where no error is alleged and no new evidence is available, a new or more effective presentation by the applicant shall not constitute grounds for rehearing a decision of the Board. Any applicant wishing a rehearing shall appear before the Board to present one or more of the qualifying conditions listed in this Section.

If the Board finds that one or more of the qualifying conditions exist, the applicant shall be permitted to submit a new application. This new application shall be heard at a subsequent Board meeting, and shall be subject to all regular advertising and procedural requirements. Allowing a new application does not obligate the Board to grant the request.

Section 9. Appeals From Action of the Board of Adjustment

Any party aggrieved by any final judgment or decision of the Board may, within fifteen (15) days thereafter appeal there from to the circuit court or court of like jurisdiction, by filing with the Board a written notice of appeal specifying the judgment or decision from which appeal is taken. In case of such appeal, the Board shall cause a transcript of the proceedings in the case to be certified to the court to which the appeal is taken and the cause in such court shall be tried *de novo*.

ARTICLE XII: AMENDING THE ORDINANCE

Section 1. Petition for Change

A proposed change of district boundaries or regulations of this Ordinance may be initiated by the City Council, the Planning Commission or by petition of property owners or agent of such owners of property within the area proposed to be changed, subject to this Ordinance.

Section 2. Action On Petition

Any proposed amendment, modification or repeal shall first be submitted to the Planning Commission for its recommendation and report. The Planning Commission shall have sixty (60) days within which to submit its recommendations to the City Council. If the Planning Commission fails to submit a report within the sixty (60) day period, it shall be deemed to have approved the proposed amendment and the City Council shall proceed to hold a public hearing pursuant to Title 11, Chapter 52 of Code of Alabama, 1975, as amended. Any party or parties wishing to speak for or against an amendment shall appear and speak at the public hearing.

Section 3. Fees

A schedule of application fees for consideration of all approvals, permits, certificates, and public hearings required under this Ordinance shall be established by separate resolution or Ordinance. Such fees shall be computed so as to recover all costs incurred by the City in reviewing and processing zoning-related requests, including advertising fees; and shall be adopted and revised as necessary by the City Council.

Section 4. Limit on Initiation of an Application for Ordinance Amendment

No action shall be initiated for an amendment to this Ordinance affecting the same parcel of land more than once a year, unless specifically authorized by the City Council on the grounds that the circumstances and conditions relevant to the amendment request have changed significantly since the prior hearing.

REZONING APPLICATION and ACKNOWLEDGEMENT
Enterprise Planning Commission
P.O. Box 311000
Enterprise, AL 36331
Phone 334/ 348-2671
Fax 334/ 348-2672

(PLEASE PRINT OR TYPE ON THE APPLICATION)

APPLICANT NAME: _____

CONTACT PERSON (If other than Applicant) _____

PROPERTY OWNER (If other than Applicant) _____

ADDRESS OR LOCATION OF PROPERTY: _____
(Address must be approved by the E-911 Coordinator)

ACREAGE OF PROPERTY _____

PRESENT ZONING _____ REQUESTED ZONING _____

CONTACT INFORMATION

Mailing Address _____

Telephone No(s) () _____ () _____
Fax No. () _____ E-Mail _____

I acknowledge that I have received a copy of the Rezoning Checklist, and I understand that the applicant is responsible for having at the applicant's expense, one or more Public Notice signs on the property for which the rezoning is requested.

I acknowledge that, unless otherwise determined by the Building official, at least one Public Notice sign must be placed along each street which the property fronts.

I acknowledge that the Public Notice sign(s) must be posted on the property at least fourteen (14) days prior to the scheduled Planning Commission meeting and that the content and format of the sign(s) must conform to the Planning Commission's requirements.

I acknowledge that it is the policy of the Planning Commission not to consider a rezoning request unless all of the requirements of the Rezoning Checklist have been met.

PRINTED NAME: _____

REPRESENTING: _____

SIGNATURE: _____

DEADLINE FOR PUBLIC NOTICE SIGN: _____ (Consult Planning Department)

Receipt Number

Date of Receipt

REZONING APPLICATION CHECK LIST

Enterprise Planning Commission

P.O. Box 311000

Enterprise, AL 36331

Phone 334/ 348-2671

Fax 334/ 348-2672

In accordance with Article XII, Section 1 of the Enterprise Alabama, Zoning Ordinance, the following shall be submitted 21 days prior to the Public Hearing Date, which will be the fourth Tuesday of each month at 4:30pm in the City Council Chambers of City Hall.

1. A complete Rezoning Application, which shall include the location and acreage of land to be rezoned.
2. \$50.00 filing fee (Checks made payable to the City of Enterprise).
3. Three (3) copies of a Rezoning Map on 22" x 34" paper completed, signed and sealed by an Alabama licensed surveyor of the proposed rezoning containing the following information:
 - A minimum scale of 1 inch = 100 ft. showing the distance, bearing, legal description, all surrounding zoning, property as presently zoned and proposed zoning.
 - A written legal description.
 - Vicinity map on smaller scale.
4. A PUBLIC NOTICE sign must be erected at the applicant's expense no less than 15 days prior to the Public Hearing Date. The applicant will be responsible for making sure the sign is erected. **The PUBLIC NOTICE sign must be placed on all street frontages for proper notification of the adjacent property owners.**
5. A list of all adjacent property owners and their mailing address as determined by the latest tax assessment roll.
6. Upon recommendation of the rezoning to the City Council by the Planning Commission, the proposed rezoning ordinance notice will be published in the newspaper for two consecutive weeks with the last publication date no sooner than two weeks prior to the City Council Public Hearing of the proposed rezoning ordinance. The applicant upon notification will pay the cost of publication, as determined by the City Clerk based on the size of the proposed rezoning ordinance by words and maps. Publication will be held until the cost of publication is paid.
7. Upon passage by the City Council, the approved ordinance will be legally advertised in the newspaper. The cost of the advertising will be responsibility of the applicant as determined by the City Clerk. Publication will be held until the cost of publication is paid.

SIGN SPECIFICATIONS
Enterprise Planning Commission
P.O. Box 311000
Enterprise, AL 36331
Phone 334/ 348-2671
Fax 334/ 348-2672

BOARD

The sign shall be painted in black letters on a white background on a 4' x 8' sheet of plywood at least ½" thick with sufficient bracing to make the sign stable. The sign shall be of sufficient quality that it may be easily read from the street and shall be placed along each street frontage of the lot.

LETTERS

A three-inch space shall be between each line. The words PUBLIC NOTICE shall be in six-inch high letters with each remaining line in three-inch letters. Letters shall be one and one-half inch in width with the letter "I" at least one once in width with appropriate spacing between words. There is a maximum of 48 letters per line. This takes 72 inches leaving 24 inches for the margin and appropriate spacing.

RULES

The sign shall be erected on the lot no less than fifteen (15) days prior to the Planning Commission meeting day at which the request is to be considered. The sign shall remain erected until the day after the meeting in which the applicant will be responsible for the removal of the sign from the site. Any tabled items from the agenda until the next month will need to have the sign changed to note the new date.

Any failure to adhere to the above specifications will result in the failure of the applicant's request to be considered by the Planning Commission.

EXAMPLE OF REZONING PUBLIC NOTICE SIGN

Enterprise Planning Commission

P.O. Box 311000

Enterprise, AL 36331

Phone 334/ 348-2671

Fax334/ 348-2672

PUBLIC NOTICE

**NOTICE IS HEREBY GIVEN THAT THE PLANNING COMMISSION OF THE CITY OF ENTERPRISE
WILL ON TUESDAY, _____ AT 4:30PM, CONSIDER THE REZONING OF THIS SITE
FROM _____ TO _____**

PLANNING & ZONING OFFICE

334/ 348-2671

(Sign must be 4'x 8' as required)

ARTICLE XIII: ADMINISTRATION, ENFORCEMENT, AND PENALTIES

Section 1. Enforcing Officer

The provisions of this Ordinance shall be administered and enforced by the Building Official of the City. This official shall have the right to enter upon any premises at any reasonable time prior to the issuance of Certificate of Occupancy for the purpose of making inspections of buildings or premises necessary in carrying out his/her duties in the enforcement of this Ordinance.

Section 2. Permit Required

It shall be unlawful to commence excavation for the construction of any building or other structure, including accessory structures, signs, fences or pools; or to commence the demolition of any structure; or to store building materials or erect temporary field offices; or to commence the moving, or alteration (except repairs, painting or wall papering and work not changing the character of the structure) of any structure, including accessory structures, signs and advertising structures; until the Building Official has issued for any and all such work a building permit stating that plans have been reviewed for compliance with this Ordinance. Application for any and all permits required under this Ordinance shall be made to the Building Official on forms provided for that purpose and supplemented with appropriate plans, diagrams and specifications to demonstrate proposed compliance with the Ordinance. The City Council may from time to time set fees it finds appropriate to various types of permits.

Section 3. Plans Required for Building Permit

It shall be unlawful for the Building Official to approve any plans or issue any building permit for excavation or construction until the Building Official has inspected such plans in detail and found them in conformity with this Ordinance. To this end, the Building Official shall require that every application for a building permit be accompanied by a plot plan drawn to scale, dimensioned, and showing the following in detail sufficient to enable the Building Official to ascertain whether or not the proposed development is in conformance with the provisions of this Ordinance:

- a. The actual shape, proportion, and dimensions of the lot to be built upon.
- b. The shape, size, and location of all buildings or other structures to be erected, altered, or moved, and of any buildings or other structures already on the lot, both above and below grade.
- c. The existing and intended use of all buildings or other structures.
- d. The setback and side lines of buildings on adjoining lots and such other information concerning the lot or adjoining lots as may be essential for determining conformance with the provisions of this Ordinance.
- e. Every applicant for the use of land and by virtue of the provisions of this Ordinance shall include therewith a plan showing the location of necessary fire hydrants with adequate water flow. The applicant shall provide the Building Official with copies of all deed restrictions and/or covenants, which pertain to the subject property.
 1. Cover Sheet with:
 - (a) Name and location of the development; name, address and signature of the owner; and, name, address, and seal of the engineer and/or architect;
 - (b) Vicinity map;
 - (c) Zoning and existing and proposed land use of the site; and
 - (d) Date, scale, north arrow, and number of streets.

2. Site layout, including property dimensions, rights-of-way, easements, location and dimensions of all buildings (existing and proposed), setbacks, driveway access, off-street parking and loading, circulation, screening, buffer yards, and landscaping.
3. Drainage, paving, grading and excavation, erosion and sedimentation control plan, storm water detention, floodplain management controls.
4. Public and private utilities, including sewage disposal system and water system.
5. Fire lanes and hydrants.

The Building Official shall review the site plans for general completeness and compliance with this Ordinance and shall forward copies of the plans to the Fire Chief, Street Superintendent, Water Board, and Police Chief for their review and comment.

The Building Official shall provide the applicant with a decision for approval or disapproval within two weeks of submittal. The reasons for disapproval, along with all review comments, shall be stated in writing to the applicant.

A reproducible set of the final approved site plan shall be submitted by the applicant and retained on file by the Building Official. All subsequent building permits and subdivision plats submitted by the applicant shall be in substantial accord with the final site plan.

An approved site plan shall become null and void if significant development does not commence within twelve (12) months of approval.

Section 4. Site Plan Review

No building or structure, located on property one acre or greater in size, regardless of the zone in which it is located or located on property which is adjacent to a major thoroughfare, as defined by the most recent Enterprise comprehensive plan, as amended or part of a development consisting of three or more residential units (excluding residential developments subject to subdivision regulations), regardless of the size of the property shall be hereafter erected, moved, added to or structurally altered under circumstances which require the issuance of a building permit under this ordinance, nor shall any use be established, altered or enlarged under circumstances which require the issuance of certificate of occupancy permit under this ordinance, upon any such land, until a site plan for the land upon which such buildings, structures or use is to be erected, altered or established has been approved by the city Planning Commission.

Notwithstanding the foregoing, no site plan shall be required to be submitted or approved where the Building Official, upon reviewing an application for a building permit for changes in an existing building, is satisfied that the proposed changes in the building will not increase the exterior dimensions of the building nor substantially increase the usable space within the building.

Notwithstanding the foregoing, no site plan shall be required to be submitted or approved where the Building Official, upon reviewing an application for use and occupancy permit, is satisfied that the proposed use is a permitted use in the zone, and is substantially similar to the use to which the premises were put by the last prior occupant thereof, and the property on which the use is proposed to be located has been the subject of a site plan approved by the Planning Commission. A proposed use shall not be deemed substantially similar to a prior use where this ordinance imposes more stringent requirements for the proposed new use as to off-street parking, yards, height limits or minimum lot size.

The proposed site plan shall be submitted in triplicate to the Building Official.

- a. Applicants seeking site plan review shall submit to the Building Official a proposed site plan which shall include the following:
 1. One or more scaled drawings or maps (1"=20' unless size dictates a more appropriate scale), clearly showing the following:
 - (a) Vicinity map, north arrow, scale, accurate shape proportion and dimensions of the site, name of property owner, developer and person drawing map.
 - (b) Existing and proposed topography of the site and the surrounding area at least two-foot contour intervals showing the location of existing woodlands, streams, and other significant features of the land.
 - (c) Location and dimensions of existing and proposed buildings, structures, curb cuts, driveways, off-street parking and loading areas, signs, walls, fences, screen planting, landscaping, pedestrian walks, open space, and recreational areas for use by employees, residents, tenants or the general public.
 - (d) Proposed storm drainage plan.
 - (e) Proposed traffic circulation system where any part of the land is to be used by motor vehicles.
 - (f) Proposed dedication of land for public use, including streets, easements, park and school sites.
 - (g) The location of all existing and proposed power lines, gas lines, sewer and water lines, and the location of any easements to be granted for these utilities.
 2. Drawings showing the proposed appearance of the buildings, structures and grounds after the completion of all buildings and structures and the establishment of the uses proposed on the land.
 3. A statement of the amount of area of land involved in the site, the number of acres and percentage designated for each proposed land use including public facilities, the percentage of the site proposed to be covered by buildings, the total number of dwelling units proposed, the number of dwelling units proposed per acre, the area proposed to be devoted to open space, the area proposed to be paved for parking, driveways, loading space, sidewalks, the total number of parking spaces for the use proposed, the number of employees expected per shift, the total floor area of proposed commercial uses and the proposed manner of illumination of signs.
 4. Restrictions on the use of property including proposed restrictive covenants.
 5. Plans for the protection of abutting properties.
 6. Written request for exceptions to or variations from the requirements of these regulations, if any are being requested.
 7. A statement defining the manner in which the city is to be assured that all improvements and protection devices, such as buffers, fences, etc., are to be installed and maintained.
 8. Such other additional information as may be reasonably required by the Planning Commission to accomplish the purpose of the site plan review function
- b. General conditions: The city Planning Commission shall approve the site plan only upon finding by it that the building, structures, facilities and uses proposed will not:
 1. Adversely affect the health or safety of persons residing in or working on the land in question or in the

neighborhood thereof.

2. Be detrimental to the public welfare or adversely affect the use or development of adjacent or surrounding properties.
 3. Constitute a violation of any provision of this ordinance or any other applicable law, regulation or ordinance.
- c. Specific conditions:
1. The Planning Commission, as a condition of approval of a site plan, may require screen planting when necessary to avoid adverse affect or impact upon the use or development of adjacent or neighboring properties.
 2. The Planning Commission may establish minimum design standards acceptable for site plan development to ensure good site planning and to protect the health, safety and welfare of local citizens.
 3. The Planning Commission may attach other conditions to the approval of the site plan where necessary to assure that the use of land in question will be consistent with the purpose and intent of this ordinance.
- d. The land that is the subject of an approved site plan shall be used and developed only in accordance with the plan approved or as modified by the Planning Commission. The Planning Commission in accordance with these regulations may modify a site plan. Use and development of land that is the subject of the site plan or the construction of a building or structure thereon in a manner not in compliance with that plan shall constitute a violation of this ordinance.
- e. One or more of the uses proposed for land which is the subject of the site plan shall be established on such land within 365 days after the date of approval of the plan or the plan shall become void; provided, that the Planning Commission may extend such time upon request filed within such 365 days and may grant further extension; provided, that the total length of such extensions shall not exceed one year. Where the site plan contemplates the construction of one or more new buildings or structures, the use shall be established within the meaning of this section when construction of one or more such buildings has been commenced.

Section 5. Development Plans

Any application for designation as or development within a District noted in Table 4-2 as requiring approval a Development Plan shall submit to the Building Official a conceptual plan showing the entire development site and all component stages or phases, and shall graphically express the overall development concept for the site at completion.

The Development Plan shall include the following information:

- a. The outer boundary or perimeter of the total development site, including a valid legal description.
- b. A topographic map showing contours at two-foot intervals.
- c. An identification of the characteristics of existing land uses and development for land adjoining the project site.
- d. The rights-of-way and pavements of all streets within the development, and the access to the surrounding public street system.
- e. The type, number, and location of all structures.
- f. The location, extent, and approximate acreage of all resources protection, recreation, and open space lands and other common areas.
- g. The location and nature of all common amenities such as clubhouses, swimming pools, laundries, etc.

- h. Location of all utilities, and surface water drainage facilities.

The Plan shall be drawn to scale by an engineer or architect registered in the State of Alabama.

A written report, illustrated as appropriate, shall accompany the Development Plan, and shall address the following topics:

- a. A general description of the proposal.
- b. The proposed standards for the development of the project, including density standards, yard requirements, lot sizes, and restrictive covenants.
- c. A plan for the provision of utilities and storm drainage facilities.
- d. Plans for parking, loading, access, signage, and means of protecting adjacent areas from any potential adverse impacts.
- e. Presentation of the method for dedicating or reserving land or facilities for public use or for the use of the property owners in the project.

Once approved, a Development Plan shall become a binding condition upon the development of the site, and each phase or stage shall be substantially consistent with the Plan. If the Planning Commission finds that any stage or phase substantially deviates from the approved Plan, a new Development Plan shall be submitted for review and approval. Any of the following shall constitute a substantial deviation:

- a. An increase or reduction in the land area of the project site.
- b. A change in the total number, or in the type, of dwelling units approved.
- c. Provision of less than the approved percentage of resource protection, recreation or open space land.
- d. Any significant addition, removal, or rearrangement of land uses or streets.

Approval of a Development Plan shall expire twenty-four (24) months after approval unless significant progress has been made toward implementation of the development.

Section 6. Conditional Use Procedures

Conditional uses are those that have some special effect, which differs from the potential impacts of permitted uses or exceeds them in intensity, or have uniqueness such that their effect upon the surrounding environment cannot be determined in advance of a use being proposed in a particular location. As such, conditional uses must be reviewed in terms of existing zoning and land use in the vicinity of the proposed use: whether, and to what extent the use at the proposed location is consistent with the Comprehensive Plan, the intent of this Zoning Ordinance, and another development policies and/or regulations of the City of Enterprise; and whether and to what extent all steps possible have been taken by the developer to minimize any adverse effects of the proposed use on the immediate vicinity and on the public health, welfare and safety in general.

All conditional uses where listed in Table 4-1 of Article IV shall require the submission of an application to the Board of Adjustment. Such application shall be filed with the Building Official by the property owner or the authorized agent of the property owner at least thirty (30) days prior to the date on which the application is scheduled to be heard by the Board of Adjustment, and shall include a site plan in accordance Section 4.. At least fifteen (15) days prior to the scheduled hearing before the Board of Adjustment, the Building Official shall give written notice to all adjoining property owners. Such notice shall be deemed given when deposited in the United

States mail, first class postage prepared, addressed to such property owners at their addresses submitted with the appeal. Such addresses shall be obtained by the applicant from the most recent records of the County Tax Assessor and submitted as part of the application.

The Board of Adjustment shall review the proposed conditional use for compliance with this Ordinance and other applicable codes and Ordinances, and for compatibility with the purposes of the zoning district within which it is proposed to be located. In particular the Board of Adjustment shall determine that satisfactory provisions have been made concerning the following:

- a. Access to and from the property and the proposed structure and/or uses, with particular attention to vehicular and pedestrian safety and convenience, traffic flow and control, and emergency access.
- b. The location and accessibility of off-street parking and loading areas.
- c. The location and accessibility of refuse and service areas and their potentially adverse affects upon surrounding properties.
- d. The screening and buffering of potentially adverse views and activities from surrounding properties.
- e. Control of noise, glare, odor, surface water runoff, and other potentially disturbing impacts upon surrounding properties.
- f. The availability, location, and capacity of utilities.
- g. The location and scale of signs and lighting with particular reference to traffic safety, glare, and visual compatibility with surrounding properties.
- h. The bulk, density, and lot coverage of structures, and yards and open areas, with reference to their compatibility with the character of the surrounding area.

The Board of Adjustment may impose such conditions for approval as it deems necessary in the particular case to protect the public interest and further the purposes of this Ordinance, in relation both to the items listed above and to any other factor it deems relevant. Such approval and conditions shall be granted to the property, structure, and/or use for which conditional use is approved and not to a particular person. Violations of conditions attached to any conditional use shall be deemed to be violations of this Ordinance.

The decision of the Board of Adjustment shall be final subject to those appeal rights referenced in Article XI§9 of the Ordinance.

Section 7. Statutory Review

The Planning Commission shall review the character, location and extent of any public street, square, park or other public way, ground, open space or building or structure, or any major utility project, whether publicly or privately owned, in accordance with Section 11-52-11 of the Code of Alabama, 1975, as amended. The purpose of such review shall be to determine whether or not such projects are consistent with the goals and policies of the City's Comprehensive Plan. The Planning Commission's findings and recommendations shall be transmitted to the City Council. Failure of the Planning Commission to act on an official submission within sixty (60) days from the date of such submission shall be deemed to be approval of the project.

Section 8. Certificate of Occupancy Required

The owner or owner's agent prior to use or occupancy of any building or structure, whose construction or substantial rehabilitation is undertaken following adoption of this Ordinance, shall secure a Certificate of Occupancy. Within three (3) days after the owner or owner's agent has notified the Building Official that a building or premises or part thereof is ready for occupancy or use, the Building Official shall make a final inspection thereof, and issue a

Certificate of Occupancy if the building or premises or part thereof is found to conform with the provisions of this Ordinance, or, if such certificate is refused, state such refusal in writing with the cause. The Board of Adjustment shall hear appeals from the decision of the Building Official. One copy of the signed statement by the owner or his or her agent regarding the intended use of the premises, and a signed refusal (if any) shall be kept on file with the records of the Building Official.

Section 9. Expiration of Building Permit

Any permit under which no construction work has been done above the foundation wall or other foundation support within six (6) months from the date of issuance shall expire by limitation, but shall upon reapplication, be renewable, subject, however, to the provisions of any Ordinances in force at the time of said application for renewal. In no event shall any permit be renewed more than one time.

Section 10. Unlawful Structure

Any uses of land or dwellings or construction or alteration of buildings or structures erected, altered, razed or converted in violation of any of the provisions of this Ordinance are hereby declared to be a nuisance *per se*. The Building Official is hereby authorized to apply to a court of competent jurisdiction to abate the nuisance created by such unlawful use of a structure, land or building. Whenever the Building Official has declared a structure to be in violation of any applicable provisions of this Ordinance, the owner or occupant shall, within seventy-two (72) hours from receipt of notification from the Building Official to vacate such premises, accomplish such vacation of said structure or premises until such structure or premises has been adapted to conform to the provisions of this Ordinance. Such notification shall be:

- a. By delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion; or
- b. By depositing the notice in the United States as first class certified mail; or
- c. By posting and keeping posted for seventy-two (72) hours, a copy of the notice in a conspicuous place on the premises to be repaired.

Section 11. Penalties and Remedies

Any person, firm, corporation, or other organization which violates any provisions of this Ordinance shall be fined, upon conviction, not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) plus court costs for each offense. Each day such violation continues shall constitute a separate offense. The conviction of a violation and imposition of any fine shall not constitute an exemption from compliance with the provisions of this Ordinance. In case any building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure or land is used in violation of this Ordinance, the Building Official of the City may seek an injunction or writ of *mandamus* or take other appropriate action or proceedings to stay or prevent occupancy of such building, structure or land.