

Appendix A ZONING ORDINANCE¹

ARTICLE I. PURPOSE, ENACTMENT AND TITLE

1.1. Purpose and enactment.

The City of Atmore, Alabama, pursuant to the authority granted by Title 37, Chapter 16, Code of Alabama, 1940 (as amended), and Section 11-52-1 et seq. Code of Alabama, 1975, and for the purpose of promoting the health, safety, convenience, order, prosperity, or the general welfare of the residents; to lessen congestion in the street; to secure safety from fire, panic, and other dangers; to promote health and general welfare; to provide adequate light and air, to prevent the overcrowding of land; to prevent the undue concentration of population; to facilitate the adequate provision of transportation, public facilities, schools, parks; to facilitate initiation of the comprehensive plan; to protect the ecological, physical and visual environment for the public benefit by preventing excessive or unsightly grading which may cause disruption of natural watercourses or scar natural land forms; and for other public requirements, hereby ordains and enacts into law an official Zoning Ordinance in accordance with the laws of Alabama. In their interpretation and application, the provisions of this Ordinance shall be:

- 1.11 Considered as minimum requirements;
- 1.12 Liberally construed in favor of the governing body; and
- 1.13 Deemed neither to limit nor repeal any other powers granted under state statutes.

1.2. Title.

This Ordinance shall be known and may be cited as the "Zoning Ordinance of the City of Atmore, Alabama."

¹Editor's note(s)—Printed herein is the zoning ordinance, as enacted by the mayor and city council by Ordinance No. 101-98, adopted on July 13, 1998. Amendments to this ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. Where a section has been amended or repealed by a later provision, only the current language has been printed. Additions made for purposes of clarity are indicated by brackets.

State law reference(s)—Municipal zoning, Code of Ala. 1975, § 11-52-70 et seq.

ARTICLE II. OFFICIAL PLANS AND MAPS

2.1.

This Ordinance shall be implemented as a part of the City of Atmore Comprehensive Planning Program.

2.2.

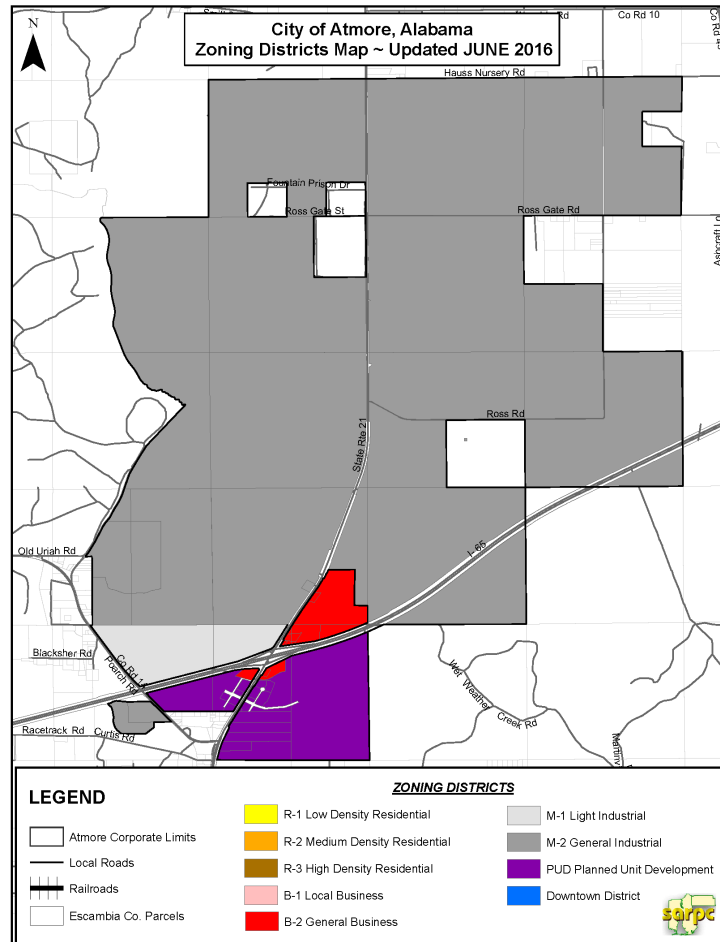
The Land Use Maps prepared as a part of the Comprehensive Planning Program shall serve as a guide for future development. To the extent practical, they shall be followed in the administration of this Ordinance.

2.3.

The Official Zoning Map approved by the Planning Commission and City Council is hereby adopted and made a part of this Ordinance. This map shall be signed by the Planning Commission Chairman and the Mayor. They shall be filed in the office of the City Clerk and shall show thereon the date of adoption of this Ordinance.

2.4.

If, in accordance with the provisions of this Ordinance, changes are made to the Official Zoning Map, changes shall be made on the map as soon as possible after the amendment has been approved by the City Council. Unauthorized alterations of the Official Zoning Map shall be considered a violation of this Ordinance and subject to penalties as prescribed under Penalties.



ARTICLE III. ADOPTION

3.1.

This Zoning Ordinance, number 101-98 was adopted by the Atmore City Council on the 13th day of July 1998.

ARTICLE IV. DEFINITIONS OF TERMS

4.1. Usage.

Except as otherwise provided herein, all words shall have the customary dictionary meaning. The present tense includes the future tense and the future tense includes the present tense. The singular number includes the plural and the plural includes the singular. The word "person" includes a firm, corporation, association, organization, trust, or partnership. The word "lot" includes "plot" or "parcel." The word "building" includes "structure." The words "shall" and "will" are always mandatory. The word "used" or "occupied," as applied to any land or buildings shall be construed to include the words "intended, arranged, or designed to be used or occupied." The words "zoning map" mean the Official Zoning Map of the City.

4.2. Words and terms defined.

As used in this Ordinance, the following words and terms shall have the meaning defined:

Abutting/Contiguous. Any property that is immediately adjacent to, touching, or immediately across any road or public right-of-way from the property in question.

Accessory Building. A subordinate building, the use of which is incidental to that of the dominant use of the main building or land.

Accessory Use. A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use.

Alley. A public street which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration, Altered. These terms shall include any changes in structural parts, stairways, type of construction, kind of class of occupancy, light or ventilation, means of ingress and egress, or other changes affecting or regulated by the Building Code or this Ordinance, including extension or expansion, except for minor changes or repairs not involving the aforesaid features.

Antenna Support Structure. Any building or other structure forty-five (45) feet in height or taller and which complies with the maximum height allowed in the district in which it is located, other than a tower which can be used for location of Telecommunications Facilities.

Arterial Street. A street designed or utilized primarily for high speed vehicular movements and heavy volumes of traffic.

Atrium. An open area within a building surrounded on all four sides by the building walls and open and unobstructed from the first floor level to the roof or sky except as otherwise provided in this Ordinance.

Automobile Repair. The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

Automobile Wrecking. The dismantling or wrecking of used motor vehicles, mobile homes, trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

Awning. A detachable framework covered by cloth or other light materials, supported from the walls of a building for protection from sun or weather.

Basement. A story all or partly underground but having at least one-half of its height below the average level of the adjoining ground.

Bed and Breakfast. The renting of rooms in a private residence for brief periods of time together with the provision of breakfast for the guests by the homeowner. All service is to be provided by the home owner.

Block. A tract of land bounded by public highways, streets, or by shorelines, waterways or other definite boundaries.

Board of Adjustment. A Board shall be appointed by the City Council that hears appeals to this Ordinance.

Boardinghouse, Roominghouse, Lodginghouse, or Dormitory. A building or part thereof, other than a hotel, motel, or restaurant, where meals and/or lodging are provided for compensation, for three or more unrelated persons where no cooking or dining facilities are provided in individual rooms.

Building. Any structure attached to the ground and intended for shelter, housing, or enclosure for persons, animals, or chattels.

Building, Alterations of. Any change in the supporting members of a building (such as bearing walls, beams, columns, and girders) except such change as may be required for its safety; any addition to a building; any changes in use resulting from moving a building from one location to another.

Building Coverage. The percent of total lot area covered by buildings and structures but excluding roof overhangs, unenclosed balconies and unenclosed walkways which do not project more than six (6) feet from the exterior walls of a building or from walls enclosing an atrium.

Building Height. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip and gambrel roofs.

Building Inspector. Individual appointed by the City to carry out the duties and enforcement required by the Zoning Ordinance, Subdivision Regulations, and the Building Code. May be used interchangeably with Building Official, Zoning Enforcement Officer, Zoning Administrator and Code Enforcement Officer.

Building Line. (See Setback Line.)

Building Official. Individual appointed by the City to carry out the duties and enforcement required by the Zoning Ordinance, Subdivision Regulations, and the Building Code. May be used interchangeably with Building Inspector, Zoning Enforcement Officer, Zoning Administrator and Code Enforcement Officer.

Building, Principal. A building in which is conducted the main or principal use of the lot on which said building is situated.

Bulk. Height and percentage of land coverage of a building.

Camouflage, Any Tower or Telecommunications Facility. To minimize a visual impact and to blend into the surrounding environment.

Canopy. A detachable, rooflike cover supported from the ground, or deck or floor of a building, and from the walls of a building for protection from sun or weather.

Cemetery. Land used or intended to be used for the burial of the human and animal dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

Certificate of Occupancy. Official certification that a premises conforms to provisions of the Zoning Ordinance and Building Code, and may be used or occupied. Such certificate is granted for new construction or for the substantial alteration or additions to existing structures. A structure may not be occupied unless such certificate is issued by the Building Official.

Change of Occupancy. The term "change of occupancy" shall mean a discontinuance of an existing use and the substitution therefor of a use of a different kind or class. Change of occupancy is not intended to include a change of tenants or proprietors unless accompanied by a change in the type of use.

Channel. A natural or artificial watercourse of perceptible extent, with bed and banks to confine and conduct continuously or periodically flowing water.

City. Atmore, Alabama.

Clinic. A place used for the care, diagnosis and treatment of sick, ailing, infirm, or injured persons, and those who are in need of medical or surgical attention, but who are not provided with board.

Club. A building or portion thereof or premises owned or operated for a social, literary, political, educational, or recreational purpose primarily for the exclusive use of members and their guests.

Club, Private. Any association or organization of a fraternal or social character not operated or maintained for profit; does not include casinos, nightclubs, or other institutions operated for a profit.

Collector Street. A street which carries medium volumes of traffic collected primarily from minor streets and delivered to arterial streets.

Commercial Message. A sign, wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service or other commercial activity.

Commercial Vehicle. Any vehicle designed and used for transportation of people, goods, or things, other than private passenger vehicles and trailers for private nonprofit transport of goods and boats.

Comprehensive Plan. A land management program.

Condominium. A development where all land, including that under the buildings in the development, is held in single ownership for the common use of unit owners or tenants; also a living unit within such a development.

Convalescent or Nursing Home. A building, or portion thereof, wherein for compensation, living accommodations and care are provided for persons suffering from illness, other than mental or contagious, which is not of sufficient severity to require hospitalization, or for persons requiring further institutional care after being discharged from a hospital other than a mental hospital; includes Extended Care Facilities.

Day Care Center. A place for the day care and instruction of young or elderly persons not remaining overnight.

Deck. A flat covered or uncovered area generally adjoining a house, building or pool, and which may be used as an outdoor sitting or recreation area.

Density. A unit of measurement; the number of dwelling units per acre of land.

Gross Density - the number of dwelling units per acre of the total land to be developed.

Maximum Density - the density allowable in a given zoning district not otherwise limited by other applicable requirements of this Ordinance.

Net Density - the number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

Detention Basin/Pond. A facility for the temporary storage of stormwater runoff.

- a. Detention basins or ponds differ from retention basins in that the water storage is only temporary, often released by mechanical means at such time as downstream facilities can handle the flow. Basins are generally designed to regulate the rate of flow to pre-development conditions. Usually, the basins are planted with grass and, if large enough, can be used for open space or recreation in periods of dry weather. Basins also serve to recharge groundwater.

Development. The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of the use of land.

District. A section of the area zoned, within which the zoning regulations are uniform.

Drive-In Restaurant. A restaurant or public eating business so conducted that food, meals or refreshments are brought to the motor vehicles for consumption by the customer or patron.

Dry Well. A cavity of sufficient size, filled to the surface with compacted rocks to allow water storage capacity.

Dwelling. A building or portion thereof designed or used exclusively for residential occupancy.

Multiple-Family - a building designed for or occupied by three or more families, with separate cooking and housekeeping facilities for each.

Dwelling Unit. Any building, portion thereof, or other enclosed space or area used as or intended for use as the home of one family, with separate cooking and housekeeping facilities, either permanently or temporarily.

Single-Family - a detached building designed for and occupied by one family as a home, with cooking and housekeeping facilities.

Two-Family - a single building occupied by or designed for occupancy by two families only, with separate cooking and housekeeping facilities for each, separated by a common wall and sharing a common roof and foundation.

Double Frontage or Through Lot. A lot or plot, but not a corner lot that abuts upon two streets, the two frontages being noncontiguous.

Easement. A grant by a property owner of the use of land for a specific purpose or purposes by the general public, or a corporation or a certain person or persons.

Erected. The word "erected" includes built, constructed, reconstructed, moved upon or any physical operations on the premises required for building. Excavations, fill, drainage, and the like shall be considered a part of erection.

Essential Services. Public utility facilities related to water, stormwater sewers, sanitary sewers, solid waste disposal, telephone, cable television, gas and electrical collection or distribution systems serving the City; but not including buildings housing employees, or public safety facilities such as fire and/or police stations.

Establishment. A business, nonprofit organization or other entity that operates from a fixed premises in the city. In a multi-tenant property, each entity that has a separate business license from the City of Atmore or a separate employer identification number from the State of Alabama shall be considered a separate establishment.

Excavation. Any mechanical removal of rock, sand, gravel, or other unconsolidated materials from a location.

Expansion Building or Use. The addition of enclosed or unenclosed rooms or storage spaces, porches, or parking area, to an existing building or use on a parcel of land.

Fall-Out Shelter. A structure or portion of a structure intended to provide protection of human life during periods of danger from nuclear fall-out, air raids, storms, or other emergencies.

Family. One or more persons (related by blood, adoption or marriage) occupying a single dwelling unit and using common cooking facilities.

Filling Station. (See *Service Station*.)

Fixed Dwelling. A dwelling unit (or structure containing several units) attached to a permanent foundation.

Flag. A piece of cloth or similar material bearing a distinctive design and emblem or symbol representing a country, a state, a political subdivision of a state, or another organization.

Flood. A temporary rise in stream or surface water level that results in inundation of areas not ordinarily covered by water.

Flood Frequency. The average frequency statistically determined, for which it is expected that a specific flood level may be equaled or exceeded.

Floodplain. Those areas defined by the U.S. Geological Survey or the U.S. Army Corps of Engineers as subject to flooding once in one hundred (100) years, based on topography.

Floodprone Area. Any area with a frequency of inundation of once in 100 years as defined by qualified hydrologists or engineers using methods that are generally accepted by persons engaged in the field of hydrology and engineering.

Floodway. That portion of the floodplain, including the channel, which is reasonably required to discharge the bulk of the regional floodwaters. Floods of less frequent recurrence are usually contained completely within the floodway.

Floor Area, Gross. The sum of the gross enclosed horizontal area of all the floors of a building, except a basement or area under the first habitable story, measured from the exterior faces of exterior walls and/or supporting columns.

Food Processing. The preparation, storage, or processing of food products on a large scale. Examples of these activities include bakeries, dairies, canneries, and other similar activities or businesses.

Frontage, Building. The outside wall surface of a building or of an enclosed porch on a building that is nearest to the front lot line, or, in the case of a wall surface not parallel to the front lot lines, the average of the longest and shortest distance of the wall from the front lot line.

Frontage, Lot line. Shall mean the lot line which abuts a street or separates the lot from a street.

Frontage, Street. All the property on the side of a street between two intersecting streets (crossing or terminating), or, if the street is dead ended, then all the property abutting on one side between an intersecting street and the dead end of the street.

Garage, Commercial. A building or portion thereof used for equipping, servicing, repairing, rental, selling and/or storage of self-propelled motor vehicles. Gasoline, oil, grease, batteries, tires and motor vehicle accessories may be supplied and dispensed at retail.

Garage, Private. A building or part thereof designed and/or used for inside parking of self-propelled private passenger vehicles by the occupants of the house or other principal structure on the premises or by the occupants of or employees of a particular firm.

Garage, Public. A building or part thereof designed or used for indoor or partially indoor (covered) parking of self-propelled private passenger vehicles, operated as a commercial enterprise, accessory to a commercial enterprise, or as a governmental service and providing only incidental services for such vehicles.

Garage, Repair. (See *Automobile Repair*.)

Habitable Rooms. Living spaces within a dwelling unit arranged in such a fashion as to be commonly described as kitchen, diningroom, living room, dinette, family room, den, music room, library, bedroom and/or any other partitioned area that is designed to be used, or that may be used as a room for the carrying on of general family activities and intended to conform to applicable building codes.

Height of Building. (See *Building, Height.*)

Home Association. Art incorporated, nonprofit organization operating under recorded land agreements through which:

- (a) Each lot and/or homeowner in a planned or other described land area is automatically a member; and
- (b) Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property; and
- (c) The charge if unpaid becomes a lien against the property.

Home Occupation. Any occupation for gain or support customarily conducted entirely within a dwelling and carried on solely by the inhabitant thereof, and which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and does not change the character thereof.

Homeowners Association. A group of homeowners in a geographical area banded together for a specific purpose.

Hotel. A transient commercial lodging establishment consisting of one or more buildings used for this purpose, including accessory uses such as eating and drinking facilities, recreation facilities and parking. This category includes motels and motor hotels. Lodgings may consist of sleeping rooms only or may include cooking facilities also, but are not intended for long-term occupancy.

Improvement. Any addition to any structure; any extension, enlargement or expansion of any structure; any repair, reconstruction or improvement, the cost of which equals or exceeds 50 percent of the fair market value of the structure either before the repair, reconstruction or improvement is started, or if the structure has been damaged and is being restored, before the damage occurred.

Improvement, Nonsubstantial. Any improvement which is not a substantial improvement.

Institution or Institutional. A nonprofit organizational building, for use, publicly or privately owned, for the benefit of the public (schools, churches, temples, hospitals, clubs, fire stations, police stations, sewerage lift pumps, libraries, museums, city offices, etc.).

Interval Occupancy. A facility comprised of one or more dwelling units in which the exclusive right of use, possession, or occupancy of each dwelling unit circulates among twelve (12) or more owners or lessees thereof in accordance with a fixed time schedule on a periodically recurring basis.

Junk Vehicle. Any vehicle that does not have a current license tag and that the owner has abandoned or left to deteriorate. This definition does not include vintage vehicles which the owner intends to restore; provided that such vehicles are properly protected by being covered or stored in a garage, barn or other enclosed area and screened from view.

Junkyard. Place, structure or lot where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, etc., are bought, sold, exchanged, baled, packed, disassembled, or handled, including used tires, unregistered, inoperable vehicles, auto wrecking yards, used lumberyards, used mobile home yards, house-wrecking yards, and yards or places for storage or handling of salvaged house wrecking and structural steel materials. One year from the date of adoption of this ordinance all junkyards, auto salvage or scrap yards shall be surrounded by either a fence at least six feet high or a buffer strip of solid screen planting within the building lines and maintain it in acceptable condition so that the yard cannot be seen from any public street and the yard may not be located within 1,000 feet of any residential structure.

Kennel. Any place or premises where four or more dogs over four months of age are kept for pay for boarding, breeding, sale or other commercial purposes. This definition does not include the raising of a litter by an owner who intends to sell or give away the puppies as soon as they are old enough.

Land Area. The total land area within the property lines of a lot.

Land Disturbing Activity. Any activity involving the clearing, cutting, excavating, filling, or grading of land or any other activity that alters land topography or vegetative cover.

Land Use Certificate. Certificate issued by the City Clerk indicating that a proposed use of land is in conformity with the zoning regulations, a prerequisite to issuance of a building permit.

Legible. As related to Section 9.5, Signs, means that a message can be comprehended by a person with eyesight adequate to obtain a current Alabama driver's license standing in the public way or other location from which legibility is to be determined. Where such facts are material, it shall be presumed that the observation takes place in daylight hours, and that the person making the observation is standing and is between 5 feet 2 inches and 6 feet tall.

Licensee. Any person licensed under the provisions of this Ordinance.

Lot. A piece, parcel, or plot of land occupied or intended to be occupied by one main building, accessory buildings, uses customarily incidental to such main buildings and such open spaces as are provided in this Ordinance, or as are intended to be used with such piece, parcel, or plot of land.

Lot, Corner. A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of a street which form an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street lines is the corner.

Lot, Interior. A lot other than a corner lot.

Lot Depth. The mean (average) horizontal distance between the front and rear lot lines, measured at right angles to the street lines.

Lot Line, Front. The lot line of shortest length adjacent to the street right-of-way line of the principal street on which the lot abuts.

Lot Line, Rear. The lot line opposite and most distant from the front lot line.

Lot Line, Side. Any lot line other than a front or rear lot line. A side lot line of a corner lot separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot is called an interior lot line.

Lot Width. The mean (average) horizontal distance between the side lot lines, measured at right angles to the lot depth, with the minimum to comply with this code to be measured at the front setback line.

Lot of Record. A lot which is a part of a recorded plat or a plot described by metes and bounds, the map and/or description of which has been recorded according to Alabama law.

Maneuvering. The space entirely on private property required for maneuvering vehicles into and out of spaces in such a manner as to preclude the backing of any vehicle into any street right-of-way.

Manufactured Home. A structure constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 as amended, [42] USC 5401. Motor homes, house trailers, travel trailers, campers, mobile homes, mobile homes made to HUD standards and similar towed, transported, or self-propelled units are not manufactured homes.

Manufacturing, Extractive. Any mining, quarrying, excavating, processing, storing, separating, cleaning, or marketing of any mineral natural resource, except for oil and natural gas resources.

Manufacturing, General. Manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution, and water pollution, but not beyond the district boundary.

Manufacturing, Light. Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor, or dust; operating and storing within enclosed structures; and, generating little industrial traffic and no nuisances.

Mini-Warehouse. A building or group of buildings in a controlled access compound that contain varying sizes of individual, compartmentalized and controlled-access stalls, cubicles and/or lockers used for storage only.

Mobile Home. Any vehicle or similar portable structure having been constructed with wheels (whether or not such wheels have been removed) and capable of being towed on a public street and so constructed as to permit occupancy for dwelling or sleeping purposes and not meeting the Manufactured Housing Construction and Safety Standard Act of 1974 (not a recreational vehicle as defined by this Ordinance).

Mobile Home Park. A site containing spaces with required improvements and utilities that are leased for the long-term placement of mobile homes/trailers/manufactured houses and that may include services and facilities for the residents.

Modular Home. A manufactured building built and inspected in accordance with a National Building Code (2003 International Residential Code) and in compliance with local building codes.

Modular Structure. Any pre-built or pre-manufactured structure mass produced in a factory and delivered as a single module or as a series of modules for placement and connection on a building site or lot approved for die intended use; provided that such structure meets State and Building Code specifications for modular structures. This definition does not include manufactured homes or mobile homes.

Motel/Motor Hotel. (See *Hotel*.)

Net Residential Acreage. Land used or proposed to be used for the placement of dwelling units and their accessory uses, private open spaces, parking areas, etc. Does not include streets or public recreation or open spaces.

Nightclub. Any nightclub, bar, tavern and cocktail lounge when separate from a restaurant defined as an establishment which primarily serves alcoholic beverages for on-premise consumption and which does not have a full service food menu and kitchen and seated food service.

Nonconforming Use. A use of land or structures existing lawfully at the time of the enactment of this Ordinance, or at the time of a Zoning Amendment and which does not conform with the regulations of the district in which it is located.

Nursing Home. A home for [the] aged, chronically ill, or incurable persons in which three or more persons not of the immediate family are received, kept, or provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Nursery, Plant Materials. Land, building, structure, or combination thereof for the storage, cultivation, transplanting of live trees, shrubs, or plants offered for wholesale or retail sale on the premises including products used for gardening or landscaping.

Nursery School. A place for the day care and instruction of children not remaining overnight; includes day care centers.

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

Off-Premises Sign. A billboard or other sign with a commercial message that pertains or directs attention to a premises other than the premises on which said sign is located.

Oil. Crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of a condensation of gas after it leaves the pool.

Open Space. An area open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, swimming pools, tennis courts or any other recreational facilities. Streets, structures for habitation, and the like shall not be included.

Open Space, Permanent Usable in Planned Unit Development.

- (1) Privately owned and occupied area of a separate lot, outside of any buildings on the lot;
- (2) Privately occupied open space assigned to an individual dwelling unit in a project and not occupied by the dwelling;
- (3) Public open space are any spaces not occupied by buildings or privately owned lots or privately-occupied space.

This public open space may consist of access driveways, off-street parking spaces, pedestrian walkways, play areas, landscaped areas and any other areas suitable for the common enjoyment of the residents of the project.

Parking Space, Off-street. For the purpose of this Ordinance, an off-street parking space shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be totally outside of any street or alley right-of-way.

Permit. Any written authorization by a duly appointed City Representative for an individual, firm, trust, partnership, association or corporation to undertake activities related to subdivisions, zoning, PUDs, land use, or building in the City.

Permittee. Any individual, firm, trust, partnership, association or corporation to whom a permit is granted, including any person to whom a temporary permit is issued, such as that to maintain and operate a mobile home park under the provisions of this Ordinance.

Person. Any individual, firm, trust, partnership, association or corporation.

Plat. A map, plan, or layout of a county, city, town, section or subdivision indicating the location and boundaries of properties.

Planned Unit Development (PUD). A planned unit development:

- (1) Is land under unified control, planned and developed as a whole in a single development operation or approved programmed series of development operations;
- (2) Includes principal and accessory uses and structures substantially related to the character of the development itself and surrounding area of which it is a part;
- (3) Is developed according to comprehensive and detailed plans which include not only streets, utilities, lots, or building sites and the like, but also site plans, floor plans, and elevations for all buildings as intended to be located, constructed, used and related to each other, and detailed plans for other uses and improvements, facilities, and services as will be for common use by some or all of the occupants of the planned unit development but will not be provided, operated or maintained at public expense.

Planning Commission. The Atmore Planning Commission.

Porch. A roofed-over space attached to the outside of an exterior wall of a building, which has no enclosure other than the exterior walls of such building. Open mesh screening shall not be considered an enclosure.

Principal Building. A building in which is conducted the predominant or primary function or activity of the lot upon which it is located.

Public Land Uses. Any land use operated by or through a unit or level of government, either through lease or ownership, such as municipal administration and operation, county buildings and activities, state highway offices and similar land uses; and federal uses such as post offices, bureau of public roads and internal revenue offices, military installations, etc.

Recreational Vehicle. A self-propelled vehicle used for temporary housing of individuals and families during travel. This category also includes motor homes as well as campers and camping trailers capable of being towed by a motor vehicle.

Regulatory Flood. The flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur. The regulatory flood generally has a flood frequency of approximately 100 years as determined from an analysis of floods at a particular site and other sites in the same general region.

Regulatory Flood Protection Elevation. The elevation required for protection from the regulatory flood by the Federal Emergency Management Agency (FEMA).

Residential Dock or Pier. A dock or pier constructed adjacent to a residential lot for gratis recreational purposes and/or mooring of private boats.

Restrictive Covenants. Private regulations recorded with the Final Plat, which limit or otherwise govern the use, intensity and development patterns of the land within a subdivision or parcel of land for a specified time.

Retaining Wall. A wall of wood, brick, concrete or other suitable material designed to prevent erosion of soil from sharply sloping land or from around pools, decks, foundations and other similar structures.

Retention Basin. A pond, pool, or basin used for the permanent storage of water runoff.

Revetment. A facing of stone, concrete, etc., built to protect a scarp, embankment, or shore structure against erosion by wave action or current.

Right-of-Way. A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

Roadside Stand. A temporary structure designed or used for the display or sale of products of a seasonal nature.

Roominghouse. Any building or portion thereof, other than a hotel or motel, which contains rooms which are designed or intended to be used, let, or hired out for occupancy, more or less transiently, by individuals for compensation whether paid directly or indirectly, and without provisions for cooking by guests or meals for guests.

Satellite Receiving Dish. A dish-shaped antenna designed to receive television broadcasts relayed by microwave signals from earth-orbiting communications satellites. This definition also includes satellite earth stations, or television dish antennas.

Seat. For purposes of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each twenty-four (24) linear inches of benches, pews, or space for loose chairs.

Semi-Public Land Uses. Philanthropic and charitable land uses including: YMCAs, YWCAs, Salvation Army, churches and church institutions, orphanages, humane societies, private welfare organizations, nonprofit lodges and fraternal orders, hospitals, Red Cross, and other general charitable institutions.

Service Station, Automobile. Any building or land used for retail sale and dispensing of automobile fuels or oils; may furnish supplies, equipment and minor services to private passenger vehicles incidental to sale and dispensing of automobile fuels and oils.

Setback Line. A line established by the subdivision regulations and/or zoning ordinance, generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building, or structure, may be located above ground, except as may be provided in said Ordinance.

Sewers, Public or Community. An approved sewage disposal system which provides a collection network and disposal system and central sewage and treatment facility for a single community, development, or region.

Sewage Treatment, On-Site. A septic tank or similar installation on an individual lot which utilizes a bacteriological or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

Shopping Center. A group of commercial establishments planned, constructed and managed as an entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, and designed to serve a community or neighborhood.

Sign. Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks or combinations thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or product which are visible from any public way and used as an outdoor display.

Sign Area. The entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Structural frames and members not bearing advertising matter shall not be included in computation of surface area. On a two-sided sign, only one face is counted in computing sign area. For signs with three or more faces, all faces will be calculated cumulatively.

Sign, Banner. A sign made of canvas or other approved flexible materials with or without a structural frame and attached to a building, canopy, pole or other structure.

Sign, Detached. A sign which is supported by one or more poles, pylons, columns, platforms, uprights, or braces in the ground and is not attached to a building or structure. Also known as a ground sign, pole sign or monument sign.

Sign Height. The height of a freestanding sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. For the purposes of this measurement, normal grade shall be construed to be the lower of:

- (1) Existing grade prior to sign construction; or
- (2) The newly established grade after sign construction exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

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

Sign, Temporary. Any sign that is used only for a short, specifically limited time and that is not permanently mounted.

Sign, Wall. Any sign painted on or attached to and erected parallel to the face of, or erected and confined within the limits of, the outside wall of any building and supported by such wall or building and which displays only one advertising surface.

Special Exception. A land use permitted that is not similar in nature to the uses permitted in the City, but that is desired and for which a suitable district is not available. Such use may be permitted upon appeal and in compliance with any special conditions which may be required.

Stormwater Detention Storage. Any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof. (See *Detention Basin*; *Retention Basin*.)

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

Story, Habitable. A story having its floor elevated at or above base flood elevation, as established by the City, regardless of the intended use of the story or its floor area and complying with applicable building codes.

Street. Any public or private way set aside for common travel more than twenty (20) feet in width.

Structural Alteration. Any change, except for repair or replacement, in supporting members of a building or structure, such as bearing walls, columns, beams or girders and complying with applicable building codes.

Structure. Any object, the whole or parts of which are constructed, erected or arranged by human agency, the use of which requires a location on the ground or attached to something having a location on the ground, including, but not limited to, a house, building, deck, pool, parking lot, gazebo or other object.

Structure, Existing. Any structure the construction of which was initiated prior to the effective date of this Ordinance and for which all required state, local and federal authorizations were obtained prior to the effective date of this Ordinance.

Structure, New. Any structure which is not an existing structure.

Subdivision. The division or redivision of a parcel of land into two or more parcels as provided for in the Subdivision Regulations of the City of Atmore.

Supervisory Control and Data Acquisition. Communications equipment necessary for the remote control and operation of Public Safety and Utility devices (traffic lights, lift stations, pumps, wells, substations, etc.).

Telecommunications Facilities. Any cables, wire, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communication which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, the term "Telecommunications Facilities" shall not include private radio and transformers, satellite receivers dishes and supervisory control and data acquisition devices less than one meter in length.

Tourist Home. A building, or part thereof, other than a motel or hotel, where sleeping accommodations are provided for transient guests, with or without meals, and which also serves as the residence of the operator.

Tower. A self-supporting lattice, guyed or monopole structure constructed from grade which receives and/or send radio and television communications or winch supports Telecommunications Facilities.

Townhouse or Condominium. An attached dwelling unit having a separate ground floor entrance and separate private yard space, with common side walls on one or both sides of the dwelling unit.

Travel Trailer Park. A development for the accommodation of tourists or vacationers on a short-term basis, providing rental spaces for each individual trailer, camper, motor home, etc., and recreation and service facilities for the use of the tenants.

Use. The specific purpose for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.

Variance. A modification of the strict terms of the relevant regulations in the City with regard to placement of structures, developmental criteria or provision of facilities. Examples include:

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- (1) Allowing smaller yard dimensions because an existing lot of record is of substandard size;
 - (2) Waiving a portion of required parking and/or loading space due to some unusual circumstances;
 - (3) Allowing fencing and/or plant material buffering different from that required, due to some unusual circumstances. Available only on appeal to the Board of Adjustment.

Waterway. Any body of water, including any creek, canal, river, lake or bay, natural or artificial.

Wholesale Establishment. Business establishments that generally sell commodities in large quantities or by the place to retailers, jobbers, other wholesale establishments, or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product, or for use by a business service.

Wine Bar. Any establishment having as its principal or predominant use the serving of wine, but no other alcoholic beverages, for consumption on the premises. Light foods not requiring preparation in a kitchen are available for consumption on the premises but are not the principal or predominant use of the establishment.

Yard. A space on the same lot with a main building, such space being open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted and complying with applicable building codes.

Yard, Front. An open, unoccupied space on the same lot with the main building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front lines of the building and the right-of-way line. Covered porches, whether enclosed or unenclosed, shall be considered as a part of the main building and shall not project into a required front yard. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension. On waterfront lots the front yard shall be considered from the front line of the building to the water.

Yard, Minimum. That yard space that must remain when the property is developed to the fullest extent allowable under applicable ordinances and codes.

Yard, Rear. An open space on the same lot with the main building, such space being unoccupied except possibly by an accessory building, extending the full width of the lot between the rear line of the main building projected to the side lines of the lot and the rear lot line. On all corner lots, the rear yard shall be at the opposite end of the lot from the front yard.

Yard, Side. An open, unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the rear boundary of the side yard shall be the rear line of the lot. On corner lots, the side yard shall be considered as parallel to the street upon which the lot has its greatest dimension.

Zero Lot Line. A developmental approach in which a dwelling unit is sited along one or more lot lines.

Zoning Administrator. The administrative officer designated to administer the zoning ordinance and issue land use certificates.

Zoning Enforcement Officer. Individual appointed by the City to carry out the duties and enforcement required by the Zoning Ordinance and Subdivision Regulations. May be used interchangeably with Zoning Enforcement Officer, Zoning Administrator and Code Enforcement Officer.

Zoning Map. The map which is part of this Zoning Ordinance and which delineate the boundaries of zoning uses.

(Ord. No. 05-2006, § 1, 6-26-2006; Ord. No. 05-2007, § 1, 10-22-2007; Ord. No. 12-2009, § 1, 12-14-2009; Ord. No. 2018-04, §§ 1—3, 10-22-2018)

ARTICLE V. DISTRICTS, BOUNDARIES AND GENERAL REQUIREMENTS

5.1. Establishment of districts.

In order to regulate and restrict the height, number of stories and size of buildings or structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures, and land use. The City of Atmore shall establish zoning use districts based on the following use classifications or variations thereof:

- 5.11 *R-1, Low Density Residential District.* This district is provided to afford the opportunity for the choice of a low density residential environment consisting of single-family homes on large lots.
- 5.12 *R-2, Medium Density Residential District.* The purpose of this district is to provide for medium density residential developments in single-family and duplex structures on medium sized lots.
- 5.13 *R-3, High Density Residential District.* The intent of this district is to provide the opportunity for high density, single-family, duplex and multi family residential development, including mobile homes meeting lot size requirements.
- 5.14 *B-1 Local Business District.* This district is intended to provide for limited retail convenience goods and personal service establishments in residential neighborhoods and to encourage the concentration of these uses in one location for each residential neighborhood rather than in scattered sites occupied by individual shops throughout a neighborhood.
- 5.15 *B-2 General Business District.* This district is intended to provide opportunity for activities causing noise and heavy traffic, not considered compatible in the more restrictive business district. These uses also serve a regional as well as a local market and require location in proximity to major transportation routes. Recreational vehicle parks, very light production and processing activities are included.
- 5.16 *M-1 Light Industrial District.* The purpose of this Light Industrial District is to provide a suitable protected environment for manufacturing, research and wholesale establishments which are clean, quiet and free of hazardous or objectionable emissions, and generate little industrial traffic. Locations should be in accordance with the City's Comprehensive Plan.
- 5.17 *M-2 General Industrial District.* The purpose of this General Industrial District is to provide a suitable environment for manufacturing activities. These districts are located for convenient access from existing and future arterial thoroughfares, highways and railway lines, and are in many instances separated from residential areas by business or light industrial areas or by natural barriers; where they are adjacent to residential areas, some type of artificial separation may be required. The district regulations are designed to permit the development of the district for almost any industrial uses, subject to the minimum regulations necessary for the mutual protection of the uses.
- 5.18 *DBD Downtown Business District.* The purpose of this district is to establish uses compatible with a vibrant commercial and retail center and a downtown area suitable for restaurants and family friendly entertainment. Uses which are not compatible with this purpose are restricted to other areas of the city.

(Ord. No. 02-2006, 4-24-2006; Ord. No. 05-2007, § 2, 10-22-2007; Ord. No. 02-2014, § 1, 4-21-2014)

5.2. Rules for determining boundaries.

The boundaries of the districts are shown on the map adopted for the City. Where uncertainty exists with respect to the boundaries of any of the districts as shown on the Officially Adopted Zoning Map, the following rules shall apply:

- 5.21 Unless otherwise indicated, the district boundaries are indicated as approximately following property lines, land lot lines, centerlines of streets, highways, alleys, shorelines of streams, reservoirs, or other bodies of water, or civil boundaries, and they shall be construed to follow such lines.
- 5.22 Where district boundaries are approximately parallel to the centerlines of streets, highways, or railroads, streams, reservoirs, or other bodies of water, or said lines extended, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map.
- 5.23 Where a public road, street or alley or other public property is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street or alley.
- 5.24 In case the exact location of a boundary cannot be determined by the foregoing methods, the Zoning Administrator shall interpret the map and render a decision. Any such decision may be appealed to the Board of Adjustment.

5.3. General requirements.

Except as hereinafter provided, the following shall generally apply:

- 5.31 *Use.* No building, structure or land shall hereafter be used or occupied and no building or part thereof shall be erected, constructed, moved, or altered except in conformity with the regulations herein specified for the district in which it is or is to be located.
- 5.32 *Building Heights.* No building shall hereafter be erected, constructed or altered so as to exceed the height limit specified in the regulations herein except as otherwise provided in the Ordinance.
 - 5.321 *Height Exceptions.* The height limits for the various districts shall not apply to church spires, belfries, cupolas, penthouses, or domes not used for human habitation, nor to chimneys, ventilators, skylights, water tanks, parapet walls, cornices, radio and television transmitting and receiving antennas, or necessary mechanical appurtenances usually carried above the roof level, provided that such features are limited to that height necessary for their proper functioning.
 - 5.322 Building height shall be measured from finished grade except where base flood elevations apply, in which case two (2) stories shall be allowed above the minimum required ground floor elevation, except as provided for elsewhere in this Ordinance.
- 5.33 *Lots.* No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that lot width or depth, front, side or rear yard, inner or outer courts, lot area per family or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for public use.
- 5.34 *Yards.* No part of a yard or other open space required for any building for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space similarly required for another building. Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, cornices, buttresses, ornamental

features, chimneys, flues, and eaves, provided such projections shall not extend more than two (2) feet beyond the yard area requirements.

- 5.35 *Multifamily*. Site plans for all multifamily dwellings intended for occupancy by three or more families shall be submitted to the Planning Commission for approval and at the least shall contain an accurate plot plan drawn to scale showing the actual shape and dimensions of the lot to be built upon, the exact sizes and locations on the lot of the buildings and accessory buildings then existing and the lines, within which the proposed buildings and structures shall be erected or altered, the existing and intended use of each building or part of building, the number of families or housekeeping units the building(s) is/are designed to accommodate, the topography, the proposed drainage system, the zone or intended zone for the use proposed, and the names of streets adjoining said property.
- 5.36 *One Principal Building on Lot*. Every residential building, including hotels, motels, condominiums, single-family and multifamily dwellings, and duplexes hereafter erected or moved shall be located on a lot, and in no case shall there be more than one (1) principal residential building on a lot except as follows:
- 5.361 In any district where multifamily structures, motels, or hotels are permitted, two or more such residential structures may be permitted on a lot provided that no building shall be located closer to another building on the same lot than a distance equal to half the sum of the heights of both buildings. In Flood Hazard areas identified on the National Flood Insurance Rate Maps, the height of a building shall be measured from the floor level of the first habitable story for purposes of this section. In addition, the front or rear of any building may be no closer to the front or rear of any other building than forty (40) feet. The side of any building shall be no closer to the side, front or rear of any other building than thirty (30) feet.
- 5.37 *Residential Uses in Business District*. Residential uses established in any Business District must comply with the minimum requirements for the high density.

5.4. Nonconformance.

It is the intent of this Ordinance to administer the elimination of nonconforming uses, buildings, and structures so as to avoid any unreasonable invasion of established private property rights. Any structure or use of land existing at the time of the enactment of this Ordinance and amendments thereto, not in conformity with its use regulations and provisions, may be continued subject to the following provisions:

- 5.41 *Unsafe Structures*. Any structure or portion thereof declared unsafe by any authority may be restored to a safe condition.
- 5.42 *Alterations*. Any change in a nonconforming building site or yard area is subject to the following:
- 5.421 Any improvements, alterations, repairs or installation of new fixtures or equipment for an existing nonconforming structure may be accomplished by the owner of the structure upon obtaining the proper permits from the Building Official, provided that such improvements will bring into conformity, if possible, or that it will at least not increase, unnecessarily, the nonconformity and will in all other respects, meet the requirements of the district in which it is located.
- 5.422 Should a nonconforming building be moved, all nonconforming yard areas shall be eliminated.
- 5.423 A nonconforming use of land shall be restricted to the lot occupied by such use as of the effective date of this Ordinance. A nonconforming use of a building or buildings shall not be extended to include either additional buildings or land after the effective date of this Ordinance.

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- 5.424 If a nonconforming business, house, manufactured home, mobile home, building, structure or other improvement is moved from its site or is damaged or destroyed by fire, storm or other disaster to an extent of 50% or greater than its estimated fair market value, then either event shall be deemed a cause for elimination of the nonconformity and the nonconformity shall be forever removed and eliminated. If a nonconforming business, house, manufactured home, mobile home, building, structure or other improvement is damaged or destroyed by fire, storm or other disaster to an extent of less than 50% of its estimated fair market value, such may be improved, repaired, rebuilt or replaced on the same lot for the same or a similar use as often as may be necessary; provided that such improvement, repairing, rebuilding or replacement will bring it into conformity, if possible, or that it will at least not increase, unnecessarily, the nonconformity, and such improvements, repairs, rebuilds or replacements are completed within four (4) months of the event causing such damage or destruction.
- 5.43 *Change in Use.* A nonconforming use which is changed to a conforming use shall not be permitted to revert to the original or a less restrictive use.
- 5.44 *Discontinuance.* A nonconforming use which became such upon the adoption of this Ordinance and which has been discontinued for a continuous period of four months shall not be re-established and any future use shall be in conformity with the provisions of this Ordinance.
- 5.45 *Adjacent Land.* The presence of a nonconforming use in a zoning district shall not be allowable as legal grounds for the granting of variances or zoning amendments for other surrounding properties by the Board of Adjustment or the City Council.
- 5.46 *Access to Public Streets.* Access to public streets shall be maintained in accordance with the following requirements:
- 5.461 Each principal use shall be placed on a lot or parcel which provides frontage on a public or private street having a right-of-way of not less than fifty (50) feet.
- 5.462 Any additional dwelling shall have access to a public street by means of a passageway open to the sky at least 15 feet in width.
- 5.47 *Lots of Record.* Where the owner of a lot of record or his successor to the title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this Ordinance, the following exceptions may be allowed:
- 5.471 Where a lot, tract or parcel of land has an area or width that does not conform to the requirements of the district in which it is located, said lot may be used for a single-family dwelling in any Residential District, provided the lot to be so used has a minimum area of 4,000 square feet and a minimum lot width at the building line of 40 feet, provided it is located on a public sewer. In Business/Commercial and Industrial Districts, such lot may be used for any use permitted in the district in which it is located.
- 5.472 When two or more adjoining and vacant lots with continuous frontage are in a single ownership at the time of application and such lots have a frontage or lot area less than is required by the use district in which they are located, such lots may be platted or re-parcelled so as to create one or more lots which conform to the minimum frontage and area requirements of the use district.
- 5.473 Buildings or structures located on substandard lots of record may be improved provided that such improvement is not detrimental to the area, does not increase the nonconformance, or is required by other laws or ordinances of the City.
- 5.48 *Yard Requirements.* Yard requirements shall be modified subject to the following conditions:
- 5.481 On double frontage lots, the required front yard shall be provided on each street.

5.482 Whenever a rear property line of a lot abuts upon an alley, one-half (½) of the alley width shall be considered as a portion of the required rear yard.

5.483 An unroofed porch shall not project into a required front yard for a distance exceeding five (5) feet.

5.484 On substandard lots of record, the front, side and rear setbacks may be less than required in this Ordinance; provided that no front setback shall be less than the average setback of the existing developed lots on the same block and on the same side of the street; no side setback shall be reduced to less than five (5) feet; and no rear setback shall be reduced to less than fifteen (15) feet. The amount of reduction up to these limits shall be determined by the Zoning Administrator in consideration of the lot size and the size of the proposed structure.

5.485 The setback requirements for side yards and/or front yards on corner lots shall not apply to any lot where the average setback on residentially developed lots located, wholly or in part, 100 feet on each side of such lot and within the same block and zoning district and fronting on the same streets as such lot, is less than the minimum required setback. In such cases, the setback on such lot may be less than the required setback, but not less than the average of the existing setbacks on the existing developed lots.

(Ord. No. 11-2011, § 5.424, 2011)

5.5. Screening, lighting and space.

5.51 In any Commercial District, any operation not conducted within a building, such as drive-in businesses, outdoor recreation, outdoor storage of materials, and outdoor servicing activities, shall be enclosed by a wall or fence of solid appearance or tight evergreen hedge not less than six (6) feet in height where necessary to conceal such areas or facilities from a residential district adjoining or facing across a street in the rear or on the side of the principal building or use.

5.52 In any district where reference is made requiring adequate screening of a specified operation, such screening shall be a wall or fence of solid appearance or tight evergreen hedge not less than six (6) feet in height.

5.53 Outdoor lighting of all types shall be directed so as to reflect away from all adjacent properties and shall be so situated as not to reflect directly into any public right-of-way.

5.54 All screening, lighting, space, etc., shall be in good condition and appearance. The Building Inspector may cause to be removed, replaced, repaired or corrected at the owner's expense, any screening, lighting and space improperly maintained.

5.6. Surface drainage.

Owners, particularly developers of the larger paved areas such as those in connection with apartment complexes, shopping centers, etc., shall be responsible for increased runoff resulting from these developments which cause flood damage to neighboring property. The Building Inspector shall, in consultation with the City Engineer, determine that reasonable provisions for properly handling surface drainage in accordance with Article X and the City's "Specification for Roadway and Drainage Facilities" have been made in the applicant's design, and report these findings for the Planning Commission's consideration in acting on building applications. If such provisions are not made in the applicant's design, the Planning Commission shall make such remedies as may be available to the applicant as a condition of the building permit issuance.

5.7. Erosion and sediment control.

Where more than one acre of land will be disturbed for construction purposes, developers shall be required to submit a sediment and erosion control plan for approval (see Article X).

5.8. Utilities.

5.81 *Septic Tanks.* In areas where there are no sewerage facilities, septic tanks may be used in accordance with current regulations of the Alabama Department of Public Health and the Escambia County Health Department.

5.82 *Water and Sewer Connections.* Developments or individual lots in all districts must connect to public or private community water and sewer systems where such systems border any development or lot line or are reasonably available and the appropriate utility has the capacity to provide the service; otherwise, lots must meet the minimum size requirements of the Health Department for on-site wells and/or septic systems. Existing private wells and septic systems that are functioning properly and meet the Health Department requirements may continue to be used.

5.821 It is the intent of this Ordinance to eliminate by attrition all existing private wells and septic systems in areas where public or private community water and sewer systems are available. Therefore, at such time as any private well or septic system is destroyed or must be replaced, the owner must connect to the public or private community water and sewer system where such systems border any development or lot line or are reasonably available and the appropriate utility has the capacity to provide the service.

5.83 *Other.* All new utilities shall be placed underground.

5.9. Existing covenants.

Where subdivisions, lots, or parcels exist which have already been recorded or which will be recorded with deed restrictions or other such restrictive covenants, such restrictions and covenants shall apply if they are more stringent than the requirements of this Ordinance; otherwise, the requirements of this Ordinance shall apply.

5.010. Grandfather clause.

Any use of buildings or land existing on the date of adoption of this Ordinance and not in compliance with its provisions shall be allowed to continue as a nonconforming use. Any land development projects in the City under legal authority of this Ordinance that are not located in a zoning district designated for their intended use may be permitted to continue provided that:

5.0101 The project was under construction prior to the date of adoption of this Ordinance. For the purposes of this Section, under construction shall mean that a legal building or construction permit has been issued and that actual construction has been or will be started within the initial period of validity of the permit, exclusive of any time extensions, or that a permit application has been submitted to the Alabama Department of Environmental Management.

5.0102 The project complies in other aspects with the requirements of this Ordinance for districts in which similar uses are permitted.

5.0103 The developer complies with other conditions that may be required by the Planning Commission due to the unique circumstances of the land.

(Ord. No. 02-2006, 4-24-2006; Ord. No. 05-2007, § 2, 10-22-2007)

ARTICLE VI. DISTRICT REGULATIONS

6.1. General.

The following limitations and requirements are placed on uses in each district established under the authority of this ordinance, in accordance with the intent of the ordinance.

Any use requiring a building permit is subject to review and permit approval by the building official.

Any special exception is subject to approval of the Board of Adjustment. Each application to the Board of Adjustment for approval of a use permitted by special exception shall be accompanied by a site plan prepared by the applicant or his agent.

In any case where a requested use is not specifically listed in the Table of Permitted Uses section of this ordinance, its status shall be determined by the Board of Adjustment by reference to the most clearly analogous use or uses that are specifically referred to in the Table of Permitted Uses. When the status of a use has been so determined by the Board of Adjustment, such determination shall thereafter have general application to all uses of the same type.

In general, any higher use may be permitted as a Special Exception in a lower use district, but no lower use shall be permitted in a higher use district, except as otherwise noted in the Table of Permitted Uses or where such use exists at the time of enactment of this ordinance, in which case it is subject to the requirements of the Nonconformance section of this ordinance.

Every use in any district, except in the M-1 and M-2 districts, shall be conducted entirely within a completely enclosed structure unless expressly exempted from enclosure requirements in this ordinance by Special Exception or as may be otherwise allowed by this ordinance.

It shall be the responsibility of the owner/developer to show (prove) compliance with the requirements of this ordinance.

(Ord. No. 02-2014, § 2, 4-21-2014)

6.2. Permitted uses and conditions.

Permitted uses are listed in the permitted use table of this article.

6.21 *Uses by right.* Uses in the tables identified by (R) are permitted by right, subject to the conditions specified in the tables or elsewhere in this ordinance.

6.22 *Special exceptions—conditional uses.* Uses in the tables identified by (S) require approval by the board of adjustment pursuant to Code of Alabama § 11-52-80. These uses are generally compatible within a designated district but because of their nature must be reviewed and approved before a building permit is issued.

6.23 *Variances.* Variances from the terms of the Zoning Ordinance may be granted by the board of adjustment in conformity with Code of Alabama § 11-52-80.

6.24 *Compliance with district requirements.* Except for approved variances and special exceptions, any use must comply with the requirements of the district in which it is located unless approved under the Planned Unit Development (PUD) provisions of the Subdivision Ordinance.

6.241 Other provisions of this ordinance notwithstanding, any tracts of farmland under cultivation or pastureland and timberland presently being used for such purposes may continue to be used for such purposes regardless of the zoning district in which they may be located.

6.242 Undeveloped land or land used for agricultural purposes or timber growing shall automatically be rezoned for single-family use.

6.25 *Uses prohibited.* Where any use or analogous use has blank spaces under any zones listed in the headings of the tables of permitted uses, such use is specifically prohibited in such zones.

6.26 *Group homes.* Any provision of this ordinance notwithstanding, the provisions of Code of Alabama § 11-52-75.1 shall apply to any application for a group home. Any provision of this ordinance notwithstanding, any federal law or regulation regulating or permitting a group home shall apply to any application for a group home.

6.2 Table of Permitted Uses and Conditions								
	Use Districts							
	R-1	R-2	R-3	B-1	B-2	M-1	M-2	DBD
Air conditioning sales and service.				R	R	R	R	R
Airport and/or crop dusting-spraying service; need not be enclosed within a structure.				S	S	S	S	
Ambulance/EMS service.				R	R	R	R	S
Amusement and recreation services: Must be so arranged that noise, vibration, lights, and all other possible disturbing aspects are enclosed, screened or otherwise controlled so that operation of the establishment will not unduly interfere with the use and enjoyment of properties in the surrounding area:								
Amusement park				R	R	R	R	
Amusement arcade, kiddie land				R	R	S	S	R
Archery range				S	S	S	S	S
Baseball batting cage				S	R	S	S	S
Billiard or pool hall					S	S	S	
Bowling alley				S	R	S	S	S
Fairgrounds, circus or carnival				R	R	R	R	
Golf course	S			R	R	R	R	
Golf course, miniature				R	R	R	R	
Golf driving range				R	R	R	R	
Pistol or rifle range								
Racquetball or tennis courts, indoor				R	R	R	R	

Skating rink, indoor				R	R	R	R	
Tennis courts, outdoor: need not be enclosed within a structure.				R	R	R	R	
Animal clinic/kennels for small animals when used as an accessory use to an approved principal use.				R	R	R	R	
Animal raising, small animal breeding; need not be enclosed within a structure.				S	S	S	S	
Antique store, not including repairing and refinishing.				R	R	R	R	R
Apparel and accessory store.				R	R	R	R	R
Appliance store.				R	R	R		R
Apothecary, limited to the sale of pharmaceuticals and medical supplies.				R	R	R	R	R
Art gallery or museum.	S	S	S	R	R	R	R	R
Art supplies.				R	R	R		R
Asphalt products manufacture.						R	R	
Auditoriums (large), stadiums, coliseums, and other such places of public assembly with occupancy load of 50 or more persons.				S	R	S	S	R
Auditoriums (small), for public assembly with occupancy load of less than 50 persons.				R	R	S	S	R
Automobile laundry, where the primary function is washing automobiles, but not including trucks or trailers; operations shall be conducted only within a completely enclosed structure, and all wastes shall be discharged directly into the sewer.				R	R	R	R	
Automobile manufacture.					S	R	R	
Automobile parts sales, except used parts.				R	R	R	R	R
Automobile storage, including parking lots; need not be enclosed within a structure.				S	S	S	S	S
Automobile, travel trailer, camper, farm equipment and implements and mobile home sales (new and used); need not be enclosed within a structure, but any mechanical or body repair must be done entirely within a structure which shall not have any opening facing the residential district other than a stationary window within 100 feet of residential district.					R	R	R	
Automobile and truck laundry, including steam laundry.				R	R	R	R	

Automobile and truck repair garage, mechanical and body; must be conducted in a structure which shall not have any opening facing the residential district other than a stationary window within 100 feet of residential district, and which shall not store or otherwise maintain any parts or waste materials outside such structures.				R	R	R	R	S
Automobile and truck sales and service; but not including commercial wrecking, dismantling, or auto salvage yard; need not be enclosed within a structure provided the unenclosed part shall comply with the requirements for maintenance of off-street parking facilities.				R	R	R	R	R
Automobile and truck service station including minor repair, subject to the requirements listed under special provisions, where the primary function is retail sale of gasoline, oil, grease, tires, batteries and accessories and where services are limited to installation of the items sold, washing, polishing, tire changing, greasing and minor repairs, but not including commercial wrecking, dismantling or auto salvage yard, major mechanical overhauling or body work; fuel pumps need not be enclosed within a structure.				R	R	R	R	R
Bait store or sales (live bait); need not be enclosed within a structure.				R	R			
Bakery, retail.				R	R	R	R	R
Bakery, wholesale.				R	R	R	R	
Bank, including drive up window.				R	R	R	R	R
Barber shop or beauty parlor.				R	R	R	R	R
Barber and beauty supplies and equipment sales.				R	R	R	R	R
Bed and breakfast. Owners must reside in dwelling. Dwelling may not have more than six guest bedrooms.			S	S	S			
Bicycle, lawnmower sales, service and repair.				R	R			R
Bird and wildlife sanctuary.	S	S	S	S	S	S	S	
Blueprinting and photostatting shop.				R	R	R	R	R
Boat construction and storage, major; need not be enclosed within a structure but adequately screened from view.					R	R	R	

Boat sales, service and repair including accessories.				S	R	R	R	R
Boat storage, service and repair, minor. May include dry storage in an enclosed structure.					R	R	R	
Book store.				R	R	R	R	R
Bottling works.						R	R	
Building materials supply, provided that major storage areas are screened from view and that any machine operations are conducted entirely within an enclosed structure with no opening other than a stationary window within 100 feet of a residential district.				R	R	R	R	
Bus and railroad terminal facilities.				R	R	S	S	S
Business machines sales and service.				R	R	R	R	R
Business school or college.				R	R	R	R	
Butane and other liquefied petroleum gas products sales; need not be enclosed within a structure.				R	R	R	R	
Cabinet or carpenter shop.				R	R	R	R	
Cafe, grill, lunch counter and restaurant but not including night club, bar, tavern and drive in restaurant.				R	R	R	R	R
Camera and photographic supply store.				R	R	R	R	R
Candy, nut and confectionery store.				R	R	R		R
Canvas products manufacture.				R	R	R	R	
Carting, express, crating, hauling, storage.						R	R	
Catering shop or service.					R	R	R	R
Cemetery, subject to requirements of the special provisions.	S	S	S	S	S	S	S	
Chemical manufacture or processing (heavy, industrial).						S	S	
Churches and related accessory buildings.	S	S	S	R	R	R	R	R
City hall, police station, fire stations, courthouse, federal office building and similar public building.	S	S	S	S	S	S	S	S
Clay and clay products manufacture; need not be enclosed within a structure.					S	R	R	
Clinic, dental, medical or psychiatric for humans.				R	R	R	R	R
Clothing manufacture.						R	R	
Club or lodge, fraternal, civic, charitable or similar organization, public or private, but not including	S	S	S	R	R	R	R	S

any such club, lodge or organization, the chief activity of which is a service or product customarily carried on as a business but not including an organization which sells alcoholic beverages for off-premises consumption or which allows alcohol to be brought in for on-premises consumption and charges individual admission fees for events held on the premises.								
Club, county club, golf, swimming or tennis club or the like, privately owned and operated community club or association, athletic field, park. Recreation area, and similar uses of a recreational nature, provided that no building for such purposes is located within 100 feet of any property line.		S	S		S	R	R	
Cold storage plant.						R	R	
College or university provided that they are located on a lot fronting on an arterial street or road and that no building is located within 100 feet of any property line.	S	S	S	S	S	S	S	
College sorority or fraternity house.			S	S	S	S		
Commercial agriculture and farming operations, including horticulture, plant nurseries, and orchards.	S	S	S	R	R	R	R	
Concrete and concrete products manufacture; need not be enclosed within a structure.					S	R	R	
Contractor's storage yard for vehicles, equipment, materials and supplies, need not be enclosed within a structure, but must be enclosed within a solid fence to screen view; chain link or similar open fence may be permitted if a screen planting adequate to obstruct the view is provided.				R	R	R	R	
Convenience store (neighborhood).				R	R	R	R	
Dairy equipment sales.				R	R	R	R	
Dairy product sales.				R	R	R	R	
Delicatessen.				R	R	R	R	R
Department store.				R	R	R	R	R
Drive in restaurant.				R	R	R	R	R
Drug store.				R	R	R	R	R
Dry cleaning shop, including self service.				R	R	R	R	R
Dry goods or fabric store.				R	R	R	R	R
Dwelling, single family.	R	R	R	R	R	R	R	R

Dwelling, two family.		R	R	R	S	S		
Dwelling, multi family.			R	R	R	R		
Electric power generating plant.					S	S	S	
Electric power substation; need not be enclosed within a structure, but must be secured by a chain link or similar fence, or raised above ground so as to be inaccessible to unauthorized persons; requires visual screen.					S	S	S	
Electric repair shop.				R	R	R	R	R
Electric supply store.				R	R	R	R	R
Elevator maintenance office.					R	R	R	
Employee credit union office.				R	R	R	R	R
Exterminator service office.				R	R	R	R	R
Farm and garden equipment and supply store.				R	R	R	R	R
Farmer's market.				R	R	R	R	S
Fix it shop, including small appliance repair.				R	R	R	R	R
Fixture sales.				R	R	R	R	R
Floor covering sales and service.				R	R	R	R	R
Floral shop.				R	R	R	R	R
Food locker plant including rental of lockers for the storage of food; cutting and packaging of meats and game, but not the slaughtering of animals or fowl.					R	R	R	
Food products processing plant.					S	R	R	
Food products, wholesale storage and sales.						R	R	
Freight depot, railway or truck.						R	R	
Frozen food manufacture and packaging.						R	R	
Fruit and produce, retail.				R	R	R	R	R
Funeral home, mortuary or undertaking establishment.				R	R			
Furniture and home furnishing store, including office furniture and equipment.				R	R	R	R	R
Furniture repair, including upholstering and refinishing.				R	R	R	R	R
Gas regulator stations.	S	S	S	S	S	S	S	S
Gift shop.				R	R	R	R	R
Glass products manufacture.					S	R	R	
Grocery store, retail.				R	R	R	R	R
Gymnasium, commercial.				R	R	R	R	
Hardware store, retail.				R	R	R	R	R

Hardware store, wholesale, storage and sales.				R	R	R	R	R
Hatchery, poultry or fish.				S	S	S	S	
Heating and plumbing equipment supplies and service.				R	R	R	R	R
Hiking and nature trail.	R	R	R	R	R	R	R	
Hobby shop and supply store.			S	R	R	R	R	R
Home occupation.	S	S	S	S	S	S	S	S
Hospital, clinic, convalescent or nursing home, extended care facility or sanitarium for humans.	S	S	S	S	S	S	S	S
Hotel, motel or tourist home.				R	R	R	R	
Ice plant.				R	R	R	R	
Industrial park.					S	R	R	
Institution for children or the aged, day care.					R	R	R	
Interior decorating shop.				R	R	R	R	R
Kindergarten, play school or day care center, public or private, provided that all activities are carried on in an enclosed building or fenced yard and that all applicable federal, state, and local requirements are met.	S	S	S	R	R	R	R	
Laboratory, scientific.				R	R	R	R	R
Laboratory, medical or dental.				R	R	R	R	R
Landscape garden sales; need not be enclosed within a structure.				R	R	R	R	R
Laundry, self service.				R	R	R	R	R
Laundry and dry cleaning pick up station.				R	R	R	R	R
Laundry and dry cleaning plant.					R	R	R	
Laundry, linen supply or diaper service.						R	R	
Leather goods or luggage.				R	R	R	R	R
Library.	S	S	S	R	R	R	R	S
Liquor, wine or beer sales not to be consumed on premises and meeting local and state requirements.				R	R	R	R	
Livestock (cattle, horses, sheep and goats).								
Livestock (swine).								
Loan office.				R	R	R	R	R
Locksmith.				R	R	R	R	R
Lodging, boarding or rooming houses.			S	S	S			
Lumber yard and building materials; need not be enclosed within a structure.				R	R	R	R	
Machine shop.				R	R	R	R	R

Machinery, tools, and construction equipment, sales and service.					R	R	R	
Mail order house.				R	R	R	R	R
Manufactured home.			R					
Manufactured home park.			S					
Manufacturing, repair assembly or processing establishments of a light industrial nature, including but not limited to, the following:								
Confectionary, food, frozen dessert and milk products processing and manufacturing.						R	R	
Clothing and garment manufacturing.						R	R	
Laboratories for testing materials, chemical analysis, photographic processing.						R	R	
Musical instruments and parts manufacturing.						R	R	
Scientific, optical and electronic equipment assembly and manufacturing.						R	R	
Souvenirs and novelties manufacturing.						R	R	
Toy, sporting goods and athletic goods manufacturing.						R	R	
Manufacturing, extractive, including all natural mineral deposits except oil and gas.								
Manufacturing, general; the processing, fabrication, repair and servicing of any commodity or product.					S	R	R	
Marine stores and supplies.					R	S	S	R
Metal products fabrication.					R	R	R	
Millwork and similar wood products manufacture.						R	R	
Mobile home.								
Mobile home subdivision.								
Modular home.			R					
Modular structure.				S	S	S	S	
Motorcycle sales, service and repair.				R	R	R	R	R
Music store.				R	R			R
Natural preservation areas including bird and wildlife sanctuaries, nature and hiking trails, outdoor camping site and similar uses.	S	S	S	S	S	S	S	
News stand.				R	R	R	R	R
Nightclub. (Special Note: In considering a special exception-conditional use approval, the board of adjustment shall consider the nature of the					S	S	S	S

proposed establishment, its proximity to other establishments with a similar use, the existing density of such use within the district, and the demonstrated ability of the applicant to operate such establishment in a manner consistent with public safety and the overall public good.)								
Novelty and souvenir manufacture.						R	R	
Office.				R	R	R	R	R
Office equipment and supplies, retail.				R	R	R	R	R
Office equipment and supplies, manufacture.					R	R	R	
Oil and gas exploration and production activities.							S	
Oil well equipment, supplies and machinery; need not be enclosed within a structure.						R	R	
Optician.				R	R	R	R	R
Paint and wallpaper store.				R	R	R	R	R
Painting and decorating contractor.				R	R	R	R	R
Paper supplies, wholesale.					R	R	R	R
Park or playground including recreation centers; need not be enclosed within a structure.	S	S	S	S	S	S	S	S
Passenger depot, railway or bus.					R	R	R	R
Pawn shop.				R	R	R	R	R
Pet shop.					R	R	R	R
Petroleum and petroleum products, manufacture, processing or storage.						S	S	
Photography studio and/or processing.				R	R	R	R	R
Picture framing and/or mirror silvering.				R	R	R	R	R
Pipe storage; need not be enclosed within a structure.						R	R	
Planned unit development, fixed dwelling.	S	S	S					
Planned unit development, mobile home.	S	S	S					
Plastic fabrication.						R	R	
Plastic manufacture.					S	R	R	
Plumbing shop.				R	R	R	R	
Police substation, including highway patrol.	S	S	S	S	S	S	S	S
Post office.	S	S	S	S	S	S	S	R
Poultry live raising.								
Printing, blueprinting, bookbinding, photostatting, lithographing and publishing establishment.				R	R	R	R	R
Public utility production and maintenance building with proper screening.					S	S	S	

Public utility substation with proper screening.	S	S	S	S	S	S	S	S
Radio and television station transmitting tower.				S	S	R	R	
Radio and television sales, service and repair store.				R	R	R	R	R
Reducing exercise, karate, gymnastic or other body fitness type salon.				R	R	R	R	R
Restaurant defined as an establishment which does not primarily serve or sell alcoholic beverages and which has a full-service food menu and kitchen as well as seated food service.				R	R	R	R	R
Restaurant supplies and sales.				R	R	R	R	R
Riding academy; need not be enclosed within a structure.								
Roofing and sheet metal shop.				R	R	R	R	
Rooming house and boarding house.		S	S	R	R	R	R	
Rug and/or drapery cleaning service.				R	R	R	R	R
Sand and gravel storage yard; need not be enclosed within a structure but must be screened.						S	S	
Sawmill, planing, or timber storage.					S	S	S	
Schools public and/or private, elementary and/or secondary meeting the requirements of the education laws of the state.	S	S	S	S	S	S	S	
Seafood store, retail.				R	R	R	R	R
Sewage disposal plant; need not be enclosed within a structure.		S	S	S	S	S	S	
Shoe repair shop.				R	R	R	R	R
Shoe store, retail.				R	R	R	R	R
Sign shop.					R	R	R	R
Silviculture and related forestry operations; need not be enclosed within a structure.						R	R	
Small engine repair shop.				R	R	R	R	R
Sporting goods store.				R	R	R	R	R
Stockyard; need not be enclosed within a structure.								
Stone monument sales, retail.					R	R	R	S
Stone cutting and processing merchandise sold at retail.						R	R	
Studio for professional work or teaching of fine arts, such as photography, drama, speech, painting.				R	R	R	R	R

Studio for dance or music.				R	R	R	R	R
Surgical or dental supplies manufacture.						R	R	
Surgical or dental supplies retail.				R	R	R	R	R
Tailor shop.				R	R	R	R	R
Tattoo and body piercing establishment.						R	R	
Taxi terminal/storage and repair of vehicles.						R	R	
Taxidermy shop.				R	R	R	R	R
Teen club or youth center.				S	S	S	S	
Telephone exchange.		S	S	S	S	S	S	
Telephone equipment storage including shops and garage; need not be enclosed within a structure but must provide adequate screening.						R	R	
Temporary uses, including the sale of Christmas trees, seasonal fruit and vegetables from roadside stands, and similar uses. Farmers market only.					R	R	R	S
Theater, indoor.				S	R	S	S	R
Theater, outdoor/drive-in; need not be enclosed within a structure.					R	S	S	
Tobacco store.				R	R	R	R	R
Tower telecommunication facilities, requires approval from city council and planning commission in accordance with article XII of this chapter.	S	S	S	S	S	S	S	S
Toy store.				R	R	R	R	R
Trade school or college.				S	S	S	S	S
Transit vehicle storage and servicing; need not be enclosed within a structure.						R	R	
Utility company storage facility; need not be enclosed within a structure but must provide adequate screening.					S	R	R	
Variety store.				R	R	R	R	R
Veterinary service.				R	R	R	R	
Warehouse and storage facilities, major.						R	R	
Warehouse and storage facilities, minor; mini type (400 square feet per unit or less) do it yourself storage facilities; facilities must not open to the street; screening and landscaping is required.				R	S			S
Water storage; need not be enclosed within a structure.		S	S	S	S	S	S	S
Water or sewer pumping station.	S	S	S	S	S	S	S	S

Welding shop.				R	R	R	R	
Well drilling company.					R	R	R	
Wine Bar					S			S
YMCA, YWCA, and similar institutions.	S	S	S	S	S	S	S	S

(Ord. No. 06-2008, § 1, 7-28-2008; Ord. No. 12-2009, § 2, 12-14-2009; Ord. No. 09-2011, § 6.2, 7-11-2011; Ord. No. 04-2013, § 1, 5-13-2013; Ord. No. 14-2013, § 1, 12-23-2013; Ord. No. 02-2014, § 2, 4-21-2014; Ord. No. 05-2015, § 1, 9-14-2015; Ord. No. 03-2016, § 1, 6-27-2016; Ord. No. 2018-04, §§ 4—6, 10-22-2018; Ord. No. 01-2020, §§ 1, 2, 2-10-2020; Ord. No. 02-2020, §§ 1, 2, 2-10-2020)

6.3. [Site plan approval requirements.]

A site plan shall be required for all projects except single-family structures. Site plan reviews shall be accomplished by the Planning Commission to ensure compliance with the provisions of the Zoning Ordinance and Subdivision Regulations in conformity with its purpose as stated in Article I.

- 6.31 Upon approval of the site plan, either as submitted or with changes and/or special conditions required by the Planning Commission, the Building Inspector may issue a building permit for a portion or all of the proposed development; provided that the application is in compliance with all applicable City, County, State and Federal requirements.
- 6.32 The City Engineer may recommend waiving certain requirements contained in Section 6.33 of this Ordinance if, in his opinion, the requirements are not essential to a proper decision on the project; or he may supplement the list with other requirements deemed necessary to clarify the nature of the proposed development.
- 6.33 An application for site plan approval shall include the following information unless some or all of these requirements are waived by the Planning Commission.
 - a. The location and size of the site including its legal description and a current certified survey.
 - b. A vicinity map showing the site relation to surrounding property.
 - c. The recorded ownership interests, including liens, encumbrances, title certification in the form of a current title policy, title opinion or title report and the nature of the developer's interest, if the developer is not the owner.
 - d. The relationship of the site to existing development in the area including streets, utilities, residential and commercial development, and physical features of the land including significant ecological features. This information may be combined with requirements for the vicinity map specified in Section 6.33b above.
 - e. The density or intensity of land use to be allocated to all parts of the site together with tabulations by acreage and percentages thereof itemized by use and density.
 - f. The location, size and character of any common open space, commonly owned facilities and form of organization which will own and maintain any common open space and such facilities.
 - g. The use and maximum height, bulk and location of all buildings and other structures to be located on the site.
 - h. The substance of covenants, grants of easements or other restrictions which will be imposed upon the use of the land, buildings and structures, including proposed easements or grants for public utilities or other purposes.

- i. The provisions for disposition of open space, including tree protection, landscaping provisions and buffering requirements.
- j. In the case of plans which call for development over a period of years, a schedule showing the proposed times within which applications for building permits are intended to be filed.
- k. Any additional data, plans or specifications which the applicant or the City believes is pertinent and which will assist in clarifying the application including, but not limited to plans for: screening, lighting and space, surface drainage, erosion and sediment control, water and sewer connections., landscaping, signs, and coastal protection.
- l. A traffic impact analysis and corrective measures to address detrimental conditions brought about by the development.
- m. Architectural renderings, elevations and representative floor plans in preliminary form.
- n. The location and size of all signs to be located on the site. In the event that a sign is preexisting and fails to conform to the requirements as set forth in this ordinance, site plan approval will be granted only under the condition that all signs will comply with the regulations as set forth in the sign ordinance.
- o. Landscape plans which include the location of any trees in a tree protection zone.

6.3.1. Regulations and standards—Permitted uses.

Permitted Uses							
	R-1	R-2	R-3	B-1	B-2	M-1	M-2
Minimum lot area	12,000 sf	10,500 sf	7,500* sf	10,000 sf	10,000 sf	1 acre	1 acre
Minimum lot width at building line	100'	75'	50'	0	0	150'	150'
Maximum lot coverage	25%	30%	35%	35%	50%	75%	75%
Maximum building height	35'	35'	35'	45'	0	50'	50'
Front yard (see note A)	35'	35'	25'	20'	20'	25'	50'
Side yard (see notes A and B)	10'	10'	10'	0	0	0	30'
Rear yard (see note A)	30'	30'	30'	20'	20'	20'	35'
Maximum density (DU/acre)	1'	2'	6'	N/A	N/A	N/A	N/A
Buffer zone	N/A	N/A	N/A				N/A
Signs	See sign section						
Off-street parking	2'	2'	2'	See parking section			

*Plus 2,000 sq. ft. per additional unit

Note A: Except along County, State and Federal Highways, the setback shall be 50 — parking to side or rear — move building to front property line — require sidewalks (ensure tree protection).

Note B: Side yards on corner lots shall not be less than 30 feet on any side adjacent to street R.O.W. (As required in Section 7.05 of the City's Subdivision Regulations).

(Ord. No. 01-2009, § 1, 5-26-2009)

6.4. Conditional uses.

The nature of these uses is such that when properly regulated, they are appropriate in several zones. In order to bring about the proper integration of these uses into the community's land use pattern, a special set of standards is provided for each use. Conditional uses, as stipulated within the zone district regulations, are permitted only after review and recommendation by the planning commission, and approval of the city council.

(Ord. No. 04-2013, § 2, 5-13-2013)

ARTICLE VII. SPECIAL PROVISIONS

7.1. Apartments, townhouses and condominiums.

Within the districts permitting multifamily units, the following requirements shall apply:

- 7.11 No more than eight (8) continuous apartments, townhouses and condominiums per floor shall be built in a row with approximately the same front line.
- 7.12 No side yard is required except that on corner and interior lots the end of the building in any grouping shall conform to the side yard requirements of the district.
- 7.13 No more than twenty-five (25) percent of the lot area shall be occupied by buildings.
- 7.14 Insofar as practicable, off-street parking facilities shall be under habitable floors of buildings or grouped in bays, either adjacent to streets or in the interior of blocks, and no off-street parking shall be more than 100 feet by the most direct pedestrian route from a door of the structure it intends to serve.
- 7.15 All multifamily developments shall be required to tie into a public or private water system and a public or private sanitary sewer system operating under the conditions of an NPDES permit from the Alabama Department of Environmental Management. No other means of water supply and waste disposal shall be permitted.
- 7.16 All other requirements within the district in which the apartments, townhouses or condominiums are located shall prevail.

7.2. Accessory uses; temporary buildings; fall-out shelters; home occupations.

7.21 *Accessory Uses.* Any use may be established as an accessory use to any permitted principal use in any district provided that such accessory use:

- 7.211 Is customarily incidental to and is maintained and operated as a part of the principal use;
- 7.212 Is not hazardous to and does not impair the use or enjoyment of nearby property in greater degree than the principal use with which it is associated;

7.213 Does not create levels of noise, odors, vibration and lighting, or degrees of traffic congestion, dust or pollutants, in a greater amount than customarily created by principal use;

7.214 Is not located in minimum exterior yard; and

7.215 In residential districts an accessory use will conform to the following requirements:

- a. Where an accessory building is attached to the main building, a substantial part of one wall of the accessory building shall be an integral part of the main building or such accessory building shall be attached to the main building in a substantial manner by a roof and, therefore, such requirements applicable to the main building shall apply.
- b. A detached accessory building shall not be closer than twenty (20) feet to the main building, nor closer than five (5) feet to the lot line.
- c. A detached accessory building, not more than one (1) story in height, may be constructed on not more than 30 percent of the rear yard.
- d. No detached accessory building may be located on the front yard of a lot nor on a lot by itself.

7.22 *Temporary Buildings.* Temporary buildings or mobile type trailers used in conjunction with construction work only, may be permitted in any district and shall be removed immediately upon completion of construction.

7.23 *Home Occupations.* Home occupations shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling or adversely affect the uses permitted in the district of which it is a part. No home occupation shall be permitted which might interfere with the general welfare of the surrounding residential area due to potential noise, increased pedestrian and vehicular traffic or any other condition which would constitute an objectionable use of residentially zoned property.

7.231 Limitations on Type of Home Occupation are as follows:

- a. Area used for a home occupation shall not exceed twenty percent (25%) of the gross floor area in the principal building.
- b. The home occupation shall be confined entirely to the principal building. Anyone involved must be a member of the household and an inhabitant thereof.
- c. Chemical, mechanical or electrical equipment that creates air emissions, odors, light, glare or noises that are detectable outside of the dwelling shall be prohibited.
- d. No display of products shall be visible from the street and only articles made on the premises may be sold; except that one sign, not exceeding one square foot in area, non-illuminated, and mounted flat against the wall of the principal building; and non-durable articles (consumable products) that are incidental to a service, which service shall be the principal use in the home occupation, may be sold on the premises.
- e. Instruction in music, dancing, and similar subjects shall be limited to six (6) students at a time.
- f. The activity carried on as a home occupation shall be limited to the hours between 7:00 a.m. and 10:00 p.m.
- g. All home occupations existing at the time of adoption of this Ordinance must fully comply with the requirements set for home occupations after one (1) year.
- h. Customary home occupations shall not include the following:
 1. Uses which do not meet the provision listed above.
 2. Automobile and/or body and fender repairing.

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3. Food handling on a large-scale basis, processing or packing.
 4. Repair, manufacturing and processing uses; however, this shall not exclude the home occupation of a dressmaker where goods are not manufactured for stock, sale, or distribution.
 5. Restaurants.

- 7.24 *Satellite Receiving Dishes.* Satellite receiving dishes are permitted accessory uses in any district, provided they comply with setback, height, and other standards of this Ordinance. In any district, the dish antenna shall be located to the rear of the front building line and must be setback ten (10) feet from any interior or rear lot line. Special setbacks indicated herein apply on corner lots. The dish antenna together with the principal building and accessory building may not exceed the maximum lot coverage permitted in the district in which it is located. In residential districts where the antenna is detached from the main building, its maximum height may not exceed the height limit for the district. When roof mounted, it must conform to the zoning district's height limits. Installation and construction must also comply with the building code.
- 7.25 *Radio and TV Antennas.* Private radio and TV antennas for individual homes or for amateur use are permitted as accessory structures in any district and may be placed on roofs or in rear or side yards so that they do not occupy more than fifty (50) percent of said yard nor come closer than five (5) feet to any right-of-way or property line. Antennas in excess of the normal height limitations for the district in which they are located are subject to approval and permit by the Building Official. Said permit shall include a clause that shall indemnify, hold harmless and protect the City against any and all liabilities that may result from the erection and use of such radio and TV antennas. Antennas must be properly constructed in compliance with the latest Federal Communication Commission Regulations.
- 7.26 *Towers and Telecommunication Facilities.* Telecommunications towers and facilities are prohibited in all Residential and Special Use zones; they are permitted in Industrial zones; and may be permitted with Planning Commission approval in commercial zones. Any company or individual proposing to construct telecommunications towers or facilities in the City of Atmore shall: 1) present a tower plan showing complete coverage of the City of Atmore and its environs; 2) design new towers in compliance with FCC requirements and to be shared with one or more other telecommunications providers; and 3) obtain a building permit which shall indemnify, hold harmless and protect the City of Atmore against any and all liabilities that may result from the erection and use of such telecommunications towers and facilities. All telecommunications towers and facilities shall be of camouflage design standards.

7.3. Automobile service stations.

Within the districts permitting automobile service stations, the following requirements shall apply:

- 7.31 *Location.* The property on which an automobile service station is located shall not be within 100 feet of any property containing a school, public playground, church, hospital, public library, institution for children, elderly or dependents.
- 7.32 *Site Requirements.* An automobile service station shall have a minimum frontage on the primary street of 120 feet and a minimum lot area of 12,000 square feet. All buildings shall be setback 40 feet from all street right-of-way lines and all canopies shall be setback fifteen (15) feet from all street right-of-way lines.
- 7.33 *Access to Site.* Vehicular entrances or exits at an automobile service station:
- 7.331 Shall not be provided with more than two curb cuts for the first 120 feet of street frontage or fraction thereof.

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- 7.332 Shall contain an access width along the curblines of the street of not more than forty (40) feet as measured parallel to the street at its narrowest point and shall not be located closer than ten (10) feet to the adjoining property.
- 7.333 Shall not have any two driveways, or curb cuts, any closer than twenty (20) feet at both the right-of-way line and the curb or edge of the pavement along a single street.
- 7.34 *Gasoline Pump Islands.* All gasoline pump islands shall be set back at least fifteen (15) feet from the right-of-way line, or where a future widening line has been established, the setback line shall be measured from such line, and where pump islands are constructed perpendicular to the right-of-way line, they shall also be at least fifteen (15) feet from the right-of-way. However, the pumps shall be at least 60 feet from the centerline of an arterial street, 55 feet from the centerline of a collector street and 45 feet from the centerline of other streets.
- 7.35 *Off-Street Parking.* A minimum of two (2) off-street parking spaces is required with an additional off-street parking space for each lubrication or wash bay.
- 7.36 *Other Site Improvements.* In addition to the above requirements, the following additional site improvements shall be adhered to:
- 7.361 A solid fence or wall not less than six (6) feet nor more than eight (8) feet in height shall be erected along all adjacent property lines facing any adjacent residential lot.
- 7.362 Exterior lighting shall be arranged so that it is deflected away from adjacent properties.
- 7.363 Signs, whether permanent or temporary, shall not be placed within the public right-of-way and shall be arranged so that they do not obstruct visibility for drivers or pedestrians.
- 7.364 All driving, parking storage, and service areas shall be paved and a good stand of grass shall be maintained on the remainder of the lot.
- 7.37 *Storage of Flammable Products.* Outside above ground tanks for the storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gases shall be restricted to the requirements set forth in this Ordinance and state regulations.

7.4. Cemeteries.

Within the districts permitting cemeteries, the following requirements shall apply:

- 7.41 The site proposed for a cemetery shall not interfere with the development of a system of collector or larger streets in the vicinity of such site. In addition, such site shall have direct access to a public thoroughfare.
- 7.42 Any new cemetery shall be located on a site containing not less than 20 acres.
- 7.43 There shall be a fifty (50) foot buffer around the perimeter of the property and all structures shall be set back no less than 50 feet from any property line or minor street right-of-way.
- 7.44 All graves or burial lots shall be set back not less than 50 feet from any property line or minor street right-of-way lines, and not less than 50 feet from any collector or arterial street.
- 7.45 The entire cemetery property shall be landscaped and maintained.
- 7.46 An application must be made to the Planning Commission for any extension of existing cemeteries.

7.5. Parking requirements for all districts.

7.51 *General.* Off-street automobile storage or parking spaces shall be provided with vehicular access to a street or alley, and shall be equal to at least the minimum requirements for the specific land use set forth or as otherwise provided in this Ordinance.

7.511 The required number of parking spaces for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use at the same time, except that portion of the parking space required for an existing church whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.

7.512 Areas reserved for off-street parking in accordance with the requirements of this Ordinance shall not be reduced in area or changed to any other use unless the permitted use which it serves is discontinued or modified, except where equivalent parking space is provided to the satisfaction of the Board of Adjustment.

7.513 Off-street parking existing on the effective date of this Ordinance in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or use.

7.514 For existing commercial uses in any business district and other similar areas desiring to expand but unable for good and sufficient reason to provide parking at the standard required in the following schedule, the Board of Adjustment may grant relaxation of the strict application of these requirements on appeal, subject to the regulations governing appeals and variances.

7.52 *Parking Decks.* Where business and multifamily unit developments require large numbers of parking spaces, such spaces may be accommodated in parking decks provided that no such parking deck shall exceed three (3) levels above ground or 25% of the height of the principal structure, whichever is greater.

7.521 Parking deck design shall be compatible with the design of the principal structure. Parking deck plans must be submitted together with the building site plan and must be approved by the City Engineer and the Planning Commission.

7.522 Required landscaping and additional parking, if required, shall be provided at ground level around the parking deck and principal structure so that the entire development is aesthetically pleasing. In no case shall the ratio of impervious surface to open space exceed 1.5.

7.53 *Parking Schedule.*

7.531 Dwellings.

Land Use	Parking Requirements
a. One and two families:	Two (2) spaces for each dwelling unit.
b. Multiple:	One and six tenths (1.6) spaces for each unit.
c. Hotels:	One and one-fourth (1.25) spaces for each guest bedroom.
d. Motels, Tourist Courts and Tourist Homes:	One and two tenths (1.2) spaces for each guest bedroom.
e. Mobile Home Courts and Parks:	Two (2) spaces per unit.
f. Board and Roominghouses, Dormitories:	One (1) space for each guest bedroom.

7.532 Public Assembly.

Land Use	Parking Requirements
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a. Churches or Other Places of Worship:	One (1) space for each four (4) seats in the main auditorium or sanctuary.
b. Private Clubs, Lodges and Fraternal Buildings not providing overnight accommodations:	One (1) space for each 200 sq. ft. of building under the roof.
c. Theaters, Auditoriums, Stadiums and Similar Places of Assembly:	One (1) space for each four (4) seats.
d. Libraries, Museums:	One (1) space for each 500 sq. ft. of gross floor area.
e. Schools, including Kindergartens, Playschools and Day Care Centers:	One (1) space for each four (4) seats in assembly hall, or one (1) space for each including teachers and administrators, whichever is greater, plus five (5) spaces per classroom for high schools and colleges.
f. Skating Rinks, Dancehalls, Exhibition Halls, Pool Rooms and Other Places of Amusement or Assembly without Fixed Seating Arrangements:	One (1) space for each 200 sq. ft. of floor area.
g. Bowling Alleys:	Four (4) spaces for each alley.

7.533 Health Facilities.

Land Use	Parking Requirements
a. Hospitals, Sanitariums, Nursing Homes, Homes for [the] Aged and Similar Institutional Uses:	One (1) space for each four (4) beds, plus one (1) space for each four (4) for employees, including nurses.
b. Kennels and Animal Hospitals:	A parking area equal to 30 percent of the total enclosed or covered area.
c. Medical, Dental and Health Offices and Clinics:	One (1) space for each 200 sq. ft. of used for offices and similar purposes.
d. Mortuaries & Funeral Parlors:	Five (5) spaces per parlor chapel unit, or one (1) space per four (4) seats, whichever is greater.

7.534 Business.

Land Use	Parking Requirements
a. Commercial Establishments and Offices including but not limited to the following:	Four (4) parking spaces for up to 400 sq. ft. of gross floor area, plus one (1) parking space for each additional 400 sq. ft. of gross floor area up to 5,000 sq. ft., plus one (1) parking space for each additional 200 sq. ft. of gross floor area over 5,000 sq. ft.
	Foodstores, Furniture Stores, General Business, commercial or personal service establishments catering to the retail trade.
	Governmental Offices, Office Buildings, including banks, businesses, commercial, and professional offices and buildings but excluding medical, dental and health offices, and clinics.
	Public Utilities, such as telephone exchanges and substations, radio and TV stations.

b. Restaurants, including bars, grills, dinners, cafes, taverns, nightclubs, lunch counters, and all similar dining and/or drinking establishments.	One and two-tenths (1.2) spaces for each four (4) seats.
c. Shopping Centers:	One (1) space per 200 sq. ft. gross floor area.

7.535 Industries.

Land Use	Parking Requirements
a. Commercial, manufacturing and Industrial establishments, not catering to the retail trade:	One (1) space for each employee on the maximum working shift, plus one (1) space for each vehicle operating from the premises.
b. Wholesale establishments:	One (1) space for every fifty (50) sq. ft. of customer service area, plus two (2) spaces for each three (3) employees on the maximum working shift, plus one (1) space for each company vehicle operating from the premises.
c. Electric Power and Gas Substations:	Twenty-five (25) percent of the parcel on which located or four (4) spaces whichever is smaller.

7.536 Any use not specified by these Regulations shall require one parking space for each 300 square feet of gross floor area in the building. Where the use is mixed, total requirements for off-street parking shall be the sum of the requirements for the various uses computed separately.

7.54 *Design Standards and Improvement Requirements.*

7.541 *Definition.* An off-street parking space is an all-weather surfaced area not in a street or alley and having an area of not less than 171 square feet and minimum dimensions of 9' × 19', exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords unobstructed ingress and egress to each space.

7.542 *Parking Area Dimensions.* The design and dimensions of the parking area shall be in accordance with the following dimensions table:

Angle of Parking	Curb Length Per Car	Stall Depth	Access Driveway Width
0	23'0"	9'0"	12'0"
20	20'4"	15'0"	11'0"
30	18'0"	17'4"	11'0"
40	14'0"	19'2"	12'0"
45	12'9"	19'10"	13'0"
50	11'9"	20'5"	12'0"
55	11'1"	20'3"	15'6"
60	10'5"	21'0"	18'0"
70	9'8"	21'0"	19'0"
80	9'8"	20'4"	24'0"
90	9'0"	19'0"	24'0"

7.543 *Width of Two-Way Access Driveways.* The minimum width of two-way access driveways within parking areas shall be twenty-four (24) feet.

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- 7.544 *Paving Standards*. Parking spaces and driveways shall be paved to standards established by the City of Atmore.
- 7.545 *Drainage*. Off-street parking facilities shall be drained to prevent damage to abutting property and streets and to prevent pollutants from draining onto the adjacent lots. Landscaped areas and perimeter areas shall be so graded as to receive a reasonable portion of the rainfall from the surrounding pavement. Protective curbing around landscaped areas will leave openings for the flow of water onto unpaved areas. No runoff shall be directed to surface waters.
- 7.55 *Landscaping*. The design and appearance of parking areas is intended to be compatible with the character of the community. A landscaping plan shall be submitted for the construction of the off-street parking areas accommodating six (6) or more parking spaces.
- 7.56 *Off-Street Loading and Unloading Space*. Off-street loading/unloading spaces shall be provided as hereinafter required by this Ordinance.
- 7.561 *Size of Spaces*. Each off-street loading/unloading space shall have minimum dimensions of 14 feet in height, 12 feet in width, and 55 feet in length. However, upon sufficient demonstration that a particular loading space will be used exclusively by shorter trucks, the Board of Adjustment may reduce the minimum length accordingly to as little as 35 feet.
- 7.562 *Connection to Street or Alley*. Each required off-street loading/unloading space shall have direct access to a street or alley or have a driveway which offers satisfactory ingress and egress for trucks.
- 7.563 *Floor Area Over 10,000 Square Feet*. There shall be provided for each hospital, institution, hotel, commercial, or industrial building or similar use requiring the receipt or distribution of materials or merchandise and having a floor area of more than 10,000 square feet, at least one off-street loading/unloading space for each 10,000 square feet of floor space or fraction thereof. Such space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street or alley.
- 7.564 *Floor Area Less Than 10,000 Square Feet*. There shall be provided for each commercial or industrial building requiring the receipt or distribution of materials or merchandise and having a floor area of less than 10,000 square feet, sufficient off-street loading/unloading space (not necessarily a full space if shared by an adjacent establishment) so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street or alley.
- 7.565 *Bus and Trucking Terminals*. There shall be provided sufficient space to accommodate the maximum number of buses or trucks to be stored or to be loaded at the terminal at any one time.
- 7.566 *Location*. All required off-street loading/unloading spaces shall be located on the same lot as the building which they are intended to serve, or on an adjacent lot when shared with the use occupying said adjacent lot.
- 7.567 *Permanent Reservation*. Areas reserved for off-street loading/unloading in accordance with the requirement of this Ordinance shall not be reduced in area or changed to any other use unless the permitted use which is served is discontinued or modified except where equivalent loading/unloading space is provided and approved by the Board of Adjustments.
- 7.57 *Off-Street Parking, Loading/Unloading Spaces for Mini-warehouses*.
- 7.571 All one-way driveways shall provide for one 10-foot parking lane and one 10-foot travel lane. Traffic direction and parking shall be designated by signing or painting.
- 7.572 All two-way driveways shall provide for one 10-foot parking lane and two 12-foot travel lanes.
- 7.573 Whenever applicable, two (2) parking spaces shall be provided for the manager's quarters plus one (1) additional space for every 25 storage cubicles to be located at the project office for use of clients.

7.58 *Controlling Curb Cuts Vision Clearance.* The requirements for controlling curb cuts and maintaining vision clearance shall be as follows:

7.581 *Curb Cuts.* No curb cut shall exceed fifty (50) feet in length, nor shall curb cuts be closer than one hundred (100) feet to other curb cuts or closer than fifty (50) feet to any intersection of two streets measured along the curblane.

7.582 *Vision Clearance.* In all use districts, no fence, wall, shrubbery, sign, marquee, or other obstruction to vision between the heights of two and one-half (2½) and ten (10) feet from the street level shall be permitted within twenty (20) feet of the intersection of the right-of-way lines of two streets or railroad lines, or of a street intersection with a railroad line.

7.59 *Storage and Parking of Trailers and Commercial Vehicles.*

7.591 Commercial vehicles and trailers of all types, including motor homes, travel, boat, camping and hauling, shall not be parked or stored on any lot occupied by a dwelling or any lot in any Residential District except in accordance with the following requirements:

- a. No more than one commercial vehicle per dwelling shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products be permitted.
- b. Travel trailers, hauling trailers, motor homes, RVs, or boat trailers shall be permitted if parked or stored behind the front building setback line.
- c. A travel trailer shall not be occupied either temporarily or permanently while it is parked or stored in any area except in a trailer park authorized under this Ordinance; except that such may be occupied on a temporary basis pending rebuilding of the permanent structure following any disaster that may render the permanent structure unusable.
- d. A junked vehicle shall not be permitted to be located on or near lots with dwelling units. These junked autos shall be confined to junkyards.

7.6. Fire hazards.

The storage, utilization or manufacture of solid materials or products ranging from incombustible to moderate burning is permitted. The storage, utilization or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted, provided the following condition is met:

7.61 Said materials or products shall be stored, utilized or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system. The storage, utilization or manufacture of flammable liquids or gases which produce flammable or explosive vapors, shall be permitted in accordance with the following Table (exclusive of storage of finished products in original sealed containers).

TOTAL CAPACITY OF FLAMMABLE MATERIALS PERMITTED - GALLONS*

	Above Ground	Below Ground
Industries Engaged in Storage and Distribution of Such Materials		
1. Materials having a flash point above 190 degrees Fahrenheit (87.7878 Centigrade)	Prohibited	100,000
2. Materials having a flash point from and including 105 degrees Fahrenheit (40.5556 Centigrade) to	Prohibited	40,000

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and including 190 degrees Fahrenheit (87.7878 Centigrade)		
3. Materials having a flash point below 105 degrees Fahrenheit (40.5556 Centigrade)	Prohibited	20,000
Industries Engaged in Utilization and Manufacture of Such Materials		
1. Materials having a flash point above 190 degrees Fahrenheit (87.7878 Centigrade)	10,000	50,000
2. Materials having a flash point from and including 105 degrees Fahrenheit (40.5556 Centigrade) to and including 190 degrees Fahrenheit (87.7878 Centigrade)	1,000	20,000
3. Materials having a flash point below 105 degrees Fahrenheit (40.5556 Centigrade)	500	10,000

* When flammable gases are stored, utilized or manufactured and measured in cubic feet, the quantity in cubic feet (at S.T.P.) permitted shall not exceed 300 times the quantities listed above.

7.7. Water pollution.

No operation shall discharge, or cause to be discharged, liquid or solid waste into public waters unless in conformance with the provisions of the Alabama Department of Environmental Management and the Alabama State Board of Health Statutes and any regulations promulgated thereunder. Plans and specifications for proposed sewage and industrial waste treatment and disposal facilities shall be submitted to and approval obtained from the County Health Department and appropriate permitting agency.

7.71 The user shall be responsible for meeting the above standards and shall on reasonable request supply the County/State/Federal or other permitting authority with the information necessary to determine if the standards are being met.

7.8. Manufactured/mobile homes.

7.81 General restrictions on use and occupancy. It shall be unlawful for any person to use or to permit to be used a manufactured home for living, eating or sleeping quarters on any lot or tract of land in the city, unless such use is permitted by the zoning ordinance.

7.82 No manufactured home shall be parked or used in any manner, even in accordance with the provisions of this chapter, that will constitute a violation of the laws of Alabama or regulations of the state board of health relating to the use and occupancy of manufactured homes.

7.83 Minimum size of lot and sewer connection required outside manufactured home park. It shall be unlawful for any person to use or to permit to be used a manufactured home for living, eating or sleeping quarters on any lot or tract of land outside a manufactured home park, which lot or tract contains less than seven thousand five hundred (7,500) square feet in area, and not properly connected with the city sanitary sewer system.

(Ord. No. 09-2011, § 7.8, 7-11-2011)

7.9. Manufactured home parks.

Manufactured Home Parks as defined herein are uses permitted with planning approval in an R-3 Residential District subject to the provisions of this ordinance.

7.91 *License.* It shall be unlawful for any person to maintain or operate a manufactured home park within the limits of the City of Atmore, Alabama, unless such person shall first obtain a license. Such license shall be kept posted in the office of or on the premises of the manufactured home park at all times.

7.92 *Application for License.*

7.921 Application for initial manufactured home park license shall be filed with the City of Atmore, Alabama. The application shall be in writing, signed by the applicant and shall include the following:

- a. The name and address of the applicant;
- b. The location and legal description of the manufactured home park;
- c. The complete plan of the park in conformity with the requirements of this Ordinance;
- d. Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the manufactured home park;
- e. An engineered site plan with drainage plan reviewed by the City Engineer in accordance with Article 6.3 of this Ordinance.
- f. Such further information as may be required by the Planning Commission to enable it to determine if the proposed park will comply with legal requirements. Four (4) copies of the application and all accompanying plans and specifications shall be filed with the Building Inspector.

7.922 Upon application in writing by a licensee for renewal of a license and upon payment of the annual license fee, the City shall issue a certificate renewing such license for another year, provided that the park is still in compliance with the requirements of this Ordinance.

7.923 Upon application in writing for transfer of a license and payment of the transfer fee, the City shall issue a transfer if the transferee will sign a document indicating that he/she will comply with all the requirements of this Ordinance and other applicable local, state, and federal laws.

7.93 *Location.* Manufactured home parks may be located in the R-3 Residential District, with Planning Commission approval, as established in this Ordinance. Where any boundary of a park directly abuts property which is improved with a permanent residential building, or directly abuts unimproved property which may under existing laws and regulations be used for permanent residential construction, an evergreen landscaping buffer of not less than 20 feet in height shall be provided along such boundary.

7.94 *Manufactured Home Park Plan.* The manufactured home park shall conform to the following requirements:

7.941 The park shall be located on a well-drained site, properly graded to ensure rapid drainage and free from stagnant pools of water.

7.942 Each park shall provide manufactured home spaces, and each such space shall be clearly defined or delineated. Each space shall have an area of not less than 4,000 square feet and a width of not less than 40 feet.

7.943 Manufactured homes shall be so located on each space that there shall be at least a 20 foot clearance between manufactured homes. Manufactured homes parked end to end, the end to end clearance may not be less than 20 feet and shall not be less than 20 feet to any building within the park or to any property line of the park which does not abut upon a public street or highway. No manufactured home

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- shall be located closer than 25 feet to any property line of the park abutting upon a public street or highway, or such other distance as may be established by ordinance or regulation as a setback requirement.
- 7.944 All manufactured home spaces shall abut upon a driveway of not less than 24 feet in width, which shall be unobstructed access to a public street, alley, or highway.
- 7.945 Sidewalks not less than three (3) feet in width shall be provided from the manufactured home spaces to the service buildings.
- 7.946 Each manufactured home space shall be provided with two (2) off-street parking spaces, and such spaces shall comply with Article VII of this Ordinance.
- 7.947 All driveways and walkways within the park shall be hard surfaced and lighted at night with decorative street lamps spaced at intervals of not more than 100 feet.
- 7.948 All streets within the manufactured home park shall be paved with curb and gutter drainage, designed and installed in accordance with requirements set forth in the City of Atmore Subdivision Regulations.
- 7.949 Each space within the manufactured home park shall be provided with a concrete pad of not less than $\frac{1}{2}$ the total area of the manufactured home.
- 7.950 Each manufactured home within the park shall be subject to the same permitting and approval requirements as those placed on individual lots with regards to compatibility standards and installation requirements.
- 7.95 *Water Supply.* An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and manufactured home spaces within the park, to meet the requirements of the park. Each manufactured home space shall be provided with a cold water tap at least four inches above the ground.
- 7.96 *Sewage and Refuse Disposal.*
- 7.961 Each manufactured home space shall be provided with a sewer at least four inches in diameter, which shall be connected to receive the waste from the shower, bathtub, flush toilet, lavatory and home harbored in such space and having any or all of such facilities. The sewer in each space shall be connected to discharge the manufactured home waste into a public sewer system in compliance with any applicable ordinance or into a private sewer and disposal plant or septic tank system of such construction and in such a manner as will comply with the County Health Department requirements and present no health hazard.
- 7.962 Garbage Receptacles. Garbage receptacles with tightfitting covers shall be provided in quantities adequate to permit disposal of all garbage and rubbish. Garbage cans shall be located no further than 300 feet from any manufactured home space. The cans shall be kept in sanitary condition at all times. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to ensure that the garbage cans shall not overflow. The area used to accommodate garbage receptacles shall be properly screened by providing a wall of opaque material.
- 7.97 *Fire Protection.* Every park shall be equipped at all times with fire extinguishing equipment in good working order of such type, size and number and so located within the park as to satisfy applicable reasonable regulations of the fire department. No open flames shall be permitted at any place which may endanger life or property. No fires shall be left unattended at any time. A six inch water line with a fire plug shall be provided for each 15 manufactured homes (e.g., 16 require 2 fire plugs).
- 7.98 *Animals and Pets.* No owner or person in charge of any dog, cat or other animal shall permit it to run at large or commit any nuisance within the limits of any manufactured home park, and shall comply with other applicable local ordinances regarding animals and pets.

7.99 *Miscellaneous Provisions.*

7.991 *Common Recreation Facilities.* Not less than ten (10) percent of the total area of any manufactured home park shall be devoted to common recreational areas and facilities, such as playgrounds and swimming pools. Ways for pedestrians and cyclists shall be away from streets, and play areas for small children or other recreational areas in block interiors.

Common recreational areas shall not include streets or parking areas, shall be closed to automotive traffic except for maintenance and service vehicles, and shall be improved and maintained for the uses intended.

7.992 *Supervision.* The licensee or permittee, or a duly authorized attendant or caretaker, shall be in charge at all times to keep the manufactured home park, its facilities and equipment in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with the licensee or permittee, for the violation of any provision of this Ordinance to which the licensee or permittee is subject.

7.993 *Revocation of License.* The City of Atmore, Alabama, may revoke any license to maintain and operate when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this Ordinance. After the correction of such conditions and the payment of the penalties imposed by law and assurance given to the City Council that such condition will not be repeated, then the City Council may issue a new license.

7.994 *Skirting and Maintenance.* All manufactured homes, whether in manufactured home parks or on individual lots, whether on wheels or on piers or other type foundation, shall be skirted and maintained to the degree that is compatible with the existing residences and lots in the neighborhood.

(Ord. No. 09-2011, § 7.9, 7-11-2011)

ARTICLE VIII. PLANNED UNIT DEVELOPMENT PROVISIONS

8.1. Planned unit developments.

The intent of this section is to provide an opportunity for the best use of land, protection of valuable natural features in the community, provision of larger areas of recreational open space and more economical public services. The purpose of this provision is to encourage the unified development of tracts of land by permitting much more creative and flexible concepts in site planning than would otherwise be possible.

8.11 *Acreage Required.* Plans may be submitted for any parcel of land of three (3) acres or more in single ownership.

8.12 *Ownership.* In complying with the foregoing, single ownership shall be construed to include the following:

8.121 A person, partnership or corporation.

8.122 An association of property owners, legally bound to one another, to carry out the provisions of this section for development and operation of a Planned Unit Development, likewise legally bound to execute the agreements as provided hereinafter.

8.123 The owners' association of a condominium project, established under the provisions of Alabama law, which has the power to execute the agreements as provided for hereinafter.

(Ord. No. 05-2007, § 3(8.1), 10-22-2007)

8.2. Site plan and review process.

8.21 *Site Plan Requirements.* A detailed site plan of the proposed Planned Unit Development shall be submitted to the Atmore Planning Commission for review.

8.211 The detailed site plan shall contain maps and written statements including, as a minimum, the following:

- a. Maps should include the following information:
 1. The approximate topography at two foot intervals;
 2. Proposed land uses and the approximate location of existing and proposed buildings and other structures and uses adjacent to the site;
 3. The character and approximate density of all buildings and dwellings;
 4. The approximate location of all streets and rights-of-way, and walkways, and parking facilities;
 5. Public uses including schools, parks, playgrounds and other open spaces;
 6. Number of parking spaces;
 7. Amount of impervious surface;
 8. Generalized drainage plan;
 9. Development staging, if appropriate.
- b. The written statements shall contain an explanation of:
 1. The character of the proposed development and the manner in which it has been designed to take advantage of the Planned Development Concept;
 2. The proposed sewage disposal facilities;
 3. Water supply and surface drainage provisions;
 4. Evidence of adequate financial stability to complete the proposed project;
 5. The present ownership of all of the land include within the Planned Unit Development Project;
 6. The method proposed to maintain private common open areas, buildings or other facilities, including copies of all legal documents necessary to accomplish this; and
 7. A schedule of development.

8.22 *Public Hearing.* The Planning Commission shall hold a public hearing prior to granting preliminary approval to proceed with the Planned Unit Development.

8.23 *Plan Changes.* Construction of the Planned Unit Development shall be in conformance with the approved site plan. Any deviation from the approved site plan must be reviewed and approved by the Planning and Zoning Commission which has the authority to require reasonable plan changes as a prerequisite to approval.

(Ord. No. 05-2007, § 3(8.2), 10-22-2007)

8.3. Regulations.

- 8.31 *Residential Lot Size.* No minimum lot sizes are required so that housing can be clustered or otherwise concentrated or arranged in planned locations on the site to take advantage of its natural features.
- 8.32 *Property Owners Association.* As part of the plan proposed for any Planned Unit Development, the developer shall submit a set of covenants and other legal documents operating under recorded land agreements, through which each property owner in the Planned Unit Development is automatically subject to a charge for an appropriate proportionate share of the expenses for maintaining the common property, open space and/or other activities of the Association. Once established the covenants shall continue and remain in force during the entire existence of the Planned Unit Development.
- 8.33 *Responsibility for Open Space.* Nothing in this section of the Ordinance shall be construed as a responsibility of the City of Atmore, either for maintenance or liability of the following, which shall include but not be limited to: any private open areas, parks, recreational facilities, and a hold harmless clause shall be incorporated in the covenants running with the land to this effect. It shall be provided further, however, that when an owner of a Planned Unit Development desires to dedicate certain land areas to the City for public parks and recreational facilities, and the City approves the nature and location of such lands, and accepts the dedicated areas; then the City shall be responsible for the operation and maintenance of these lands and properties.
- 8.34 *Appearance of Public Utility Facilities.* Public utility facilities and structures shall be architecturally compatible, or shall be properly screened and landscaped in keeping with the character and appearance of the neighborhood, all as approved by the Atmore Planning Commission.

(Ord. No. 05-2007, § 3(8.3), 10-22-2007)

8.4. Changes to zoning ordinance.

No amendment or modification of this zoning ordinance shall be effective as to any PUD approval issued prior to such amendment or modification, it being intended that the PUD shall continue to be developed in accordance with the zoning ordinance in effect at the time of such prior approval.

(Ord. No. 05-2007, § 3(8.4), 10-22-2007)

landscape plan shall indicate replacement trees at least six (6) feet tall and one (1) inch in diameter for each tree removed and the landscaping plan shall show the placement of the proper number of required new trees. The plan shall include renderings by a landscape architect.

- 9.11 All new developments along County, State and Federal highways and other major arterials shall be set back fifty (50) feet from the right-of-way and shall maintain a minimum of ten (10) feet of the required fifty (50) foot setback as a greenbelt along the entire front width of the property except where curb cuts provide ingress and egress. Said greenbelt shall be planted with trees, shrubs and grass or other ground cover so that an attractive appearance is presented as detailed in the developer's required landscape plan.
- 9.12 All existing developments along County, State and Federal highways and other major arterials that presently have no landscaping along the front property line shall present an acceptable landscape plan to the Building Inspector or comply with the requirements of Section 9.11 and 5.5 within three (3) years of the date of adoption of this Ordinance.
- 9.13 A minimum of five (5) feet side and rear landscaping may be required in the landscape plan depending on the topography and arrangement of parking facilities. If required, such areas shall be planted with a combination of trees, shrubs and grass or other ground cover adequate to break the expanse of contiguous parking areas and to present an attractive appearance as determined by the Building Inspector. Adjacent property owners may jointly agree on the establishment of a common landscaped area between their properties that meets the requirement of this Section; provided that such agreement and the planting and maintenance of the common area shall be binding upon both parties and their successors, interests and assigns.
- 9.14 All new businesses primarily related to car, truck or other vehicle service and repair shall be so designed and constructed that service or repair bays shall be located on the sides or the rear.
- 9.15 Junkyards shall be buffered with vegetation so as to achieve a complete visual screen of the yard and its ancillary operations.

9.2. Parking areas.

The design and appearance of parking areas should be compatible with the character of the area. The following standards shall be observed in the construction of off-street parking areas accommodating six (6) or more parking spaces:

- 9.21 At least ten (10) percent of the total interior area intended for off-street parking shall be suitably landscaped;
- 9.22 Such landscaping shall include the placement of shade trees at intervals of approximately twelve (12) parking spaces; such trees shall be a minimum height of 8 feet at planting;
- 9.23 Interior portions of the parking area shall be broken by provision of landscaped islands;
- 9.24 A maximum of twelve (12) parking spaces in a row will be permitted without an island;
- 9.25 Each separate landscaped area must be a minimum of twenty-five (25) square feet if it is to be counted toward the minimum landscaped area requirements;
- 9.26 Landscaped areas shall be protected from vehicular encroachment by the use of curbing or wheel stops;
- 9.27 The owner, tenant and/or agent, if any, shall be jointly and severally responsible for watering and maintaining all landscaping in a healthy, neat, and orderly condition, replacing it when necessary, and keeping it free of refuse and debris.

9.3. Buffers for uncomplimentary land uses and zones.

Whenever residential land uses or zoning districts abut commercial or industrial land uses or zoning districts, a buffer strip at least ten (10) feet wide shall be required along the entire length of all such common boundaries. Said buffer strip shall be planted with trees and shrubs of sufficient density and of sufficient height (but in no case less than eight (8) feet high at the time of planting) to afford adequate sight, sound and debris protection. All screen planting shall be maintained in a clean and neat condition so as to accomplish its purpose continuously.

9.4. Tree protection.

During construction and development, trees that are to be preserved shall be protected from activities that may injure or kill them.

9.41 To the extent possible, trees within the required setbacks or buffer strips shall be preserved.

9.42 No tree within an existing right-of-way shall be trimmed, removed or otherwise harmed in any way without the prior approval of the Zoning Administrator.

9.5. Signs.

All signs shall encourage a positive visual environment in harmony with the natural beauty of the area.

9.51 *Purpose.* The purpose of this Article is to achieve balance among the following differing, and at times, competing goals:

9.511 To encourage the effective use of signs as a means of communication for businesses, organizations and individuals in the City of Atmore;

9.512 To provide a means of way-finding in the community, thus reducing traffic confusion and congestion;

9.513 To provide for adequate business identification, advertising, and communication;

9.514 To prohibit signs of such excessive size and number that they obscure one another to the detriment of the economic and social well-being of the citizens of Atmore;

9.515 To protect the safety and welfare of the public by minimizing the hazards to pedestrian and vehicular traffic;

9.516 To differentiate among those signs that, because of their location, may distract drivers on public streets and those that may provide information to them while they remain in their cars but out of active traffic;

9.517 To minimize the possible adverse effects of signs on nearby public and private property;

9.518 To prohibit most signs with commercial messages in residential zoning districts, while allowing those commercial messages that relate to commercial activities lawfully conducted on individual properties within such districts;

9.519 To balance the desire to limit commercial signage in agricultural zoning districts with the recognition of the continued importance of agriculture as part of the economic base in the City of Atmore, thus allowing commercial messages that relate to commercial activities lawfully conducted within such districts; and

9.5110 To provide broadly for the expression of individual opinions through the use of signs on private property.

9.52 *General Requirements.*

9.521 No sign, except as otherwise herein provided, shall be erected, constructed, posted, painted, altered, maintained, or relocated, until a permit has been issued by the Building Inspector.

9.522 Any permitted sign shall be subject to the size and height limitations imposed by this Ordinance for the use district in which said sign is located, except as otherwise provided herein.

9.523 No sign or sign structure shall be placed upon any street or highway right-of-way except as otherwise provided herein.

9.524 No sign shall be erected or maintained at any location where by reason of its position, working, illumination, shape, symbol, color, form or character it may obstruct, impair, obscure, interfere with the view of, or may be confused with any authorized traffic sign, signal or device, or interfere with, mislead, confuse, or disrupt traffic safety or flow.

9.525 No portion of a sign shall obscure visibility between a height of three (3) and ten (10) feet within an area defined by a triangle extending from a street intersection by a distance of 25 feet from the corner along the curblin of each street, with the third side formed by connecting the other two legs of the triangle.

9.526 No sign shall be erected, relocated or maintained so as to prevent free ingress or egress from any door, window or fire escape.

9.527 No portion of any projecting sign shall be less than eight (8) feet above the level of a sidewalk or other pedestrian thoroughfare, nor shall be less than fifteen (15) feet above the level of a public driveway, alley or street.

9.528 A sign permit shall be null and void if the sign for which the permit was issued has not been completed and erected within a period of six (6) months from the date of issuance of the permit.

9.53 *Nonconforming Signs.* Any sign in existence on the date of adoption of this Ordinance that is not in conformance with the requirements of this Ordinance shall be considered a nonconforming sign and shall be permitted to continue to exist subject to the following conditions:

9.531 No nonconforming off-premises sign shall be changed or altered in any manner which would increase the degree of its nonconformity, increase its size, or prolong its useful life. Replacing the support structure of the sign shall be considered as prolonging its useful life.

9.532 Any nonconforming sign prohibited under Section 9.55 of this Ordinance shall be removed or made to conform within ninety (90) days of the date of adoption of this Ordinance.

9.533 The Board of Adjustment may, in special cases and for good reason, and where, owing to conditions peculiar to the property and not the result of the, actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary or unique hardship, permit the erection of a sign not in conformance with the requirements of this Ordinance, and at its discretion, may require the posting of a bond in sufficient amount to protect the City against all liabilities that may result from the erection and use of such sign. A variance for a sign shall not affect the size of the sign but may allow for a reduced setback or greater height than otherwise permitted to provide reasonable visibility to a sign that would otherwise not be visible due to topographic or other physical conditions affecting the site and not under the control of the applicant for the variance.

9.534 No permits for additional signs shall be issued for any premises on which there are nonconforming signs, except that such a permit may be issued subject to the condition that the nonconforming sign(s) will be brought into conformance with the provisions of this Section 9.5 as part of the work under the permit. No permit shall be issued for any permitted sign for any

premises on which there exists an off-premises sign or billboard unless the off-premises sign or billboard is first permanently removed.

9.535 All existing off-premises signs and billboards are nonconforming as of the date of this Ordinance but shall be permitted to continue to exist like any other nonconforming sign, provided that any maintenance to or work on the sign is consistent with § 9.531.

9.54 *Applicability, Exemptions and Partial Exemptions.*

9.541 *Signs Entirely Exempt from Ordinance.* The following signs are entirely exempt from this ordinance.

9.5411 Any sign located entirely inside a building and not visible from the public right-of-way or from private property other than the property on which such sign is located;

9.5412 Any sign on a truck, bus or other vehicle that is used in the normal course of a business for transportation.

9.542 *Signs Partially Exempt from Ordinance.* Signs listed in this subsection shall be exempt from the permit requirements of this Section 9.5 but shall, to the maximum extent allowed by law, be subject to the other standards of this Ordinance. Where a sign is erected pursuant to a statute or a court order, the sign may exceed the size standards of this Ordinance or otherwise deviate from the standards set forth in this Ordinance to the extent that the statute or court order expressly required the larger size or other deviation. In all other respects, such signs shall conform to the standards of this Ordinance.

9.5421 Signs conforming with the Alabama Manual of Uniform Traffic Control Devices and bearing no commercial message;

9.5422 Signs bearing no commercial message and installed by employees or officials of a state or federal agency in the course of their governmental duties;

9.5423 Signs required by a state or federal statute;

9.5424 Signs required by an order of a court of competent jurisdiction;

9.5425 Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other than such message is necessary to identify the user;

9.5426 Signs installed by a transit company with a franchise or other right to operate in the City of Atmore, where such signs are installed along its routes and relate to schedules or other information about the transit route.

9.543 *Exemptions from Permit Requirements Only.* The following signs shall be exempt from the permit requirements of this Section but shall be subject to all other standards of this Section:

9.5431 Signs installed by City employees or officials of the City of Atmore and not falling under one of the broader exemptions of Section 9.542, Signs Partially Exempt from Ordinance;

9.5432 Detached signs smaller than two square feet in area and less than four feet in height, and containing no commercial message;

9.5433 Wall signs smaller than two square feet in area and containing no commercial message;

9.5434 Window signs permitted by this Ordinance, where such signs are not illuminated or otherwise electrified;

9.5435 Permanent signs smaller than seven square feet and permitted in single-family residential districts;

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- 9.5436 Any sign not legible from a public way or from private property other than the lot on which the sign is located;
- 9.5437 Routine maintenance of any sign, not involving structural changes to the sign;
- 9.5438 Changes of message, either manually or electronically, on a message board or reader board, subject to limitations in this Article on the frequency of changes of message; and
- 9.5439 Changes of sign panels or letters that do not involve structural changes to the sign.
- 9.55 *Signs Prohibited in All Districts.* The following signs are prohibited in all use districts:
- 9.551 Any sign erected or painted upon a fence, tree, standpipe, fire escape or utility pole, except the manufacturer's or installer's ID plate which shall not be legible from a distance of more than three feet.
- 9.552 Any sign which is a copy or imitation of an official traffic control sign.
- 9.553 Signs which contain flashing or intermittent illuminations, except as required for traffic control. Changing the copy on a bulletin board or changeable copy type sign which changes no more than one time per minute shall be deemed not to be flashing or intermittent illuminations.
- 9.554 Portable signs, snipe signs, sandwich signs, or ladder-type signs.
- 9.555 Permanent signs that produce sound or noise; cause interference with radio, telephone, television or other communication transmissions; produce or reflect motion pictures; emit visible smoke, vapor, particles, or odor; are animated or produce any rotation, motion or movement.
- 9.556 New off-premises signs or billboards in any zoning district.
- 9.56 *Maintenance and Removal of Signs.*
- 9.561 All signs shall be maintained in good condition and appearance. The Building Inspector, after due notice in writing to the owner, may cause to be removed, at owners expense, any sign which shows neglect or which appears abandoned or which becomes dilapidated or dysfunctional, or where the area for a distance of ten (10) feet around such sign is not kept free of weeds, rubbish, debris, or uncut grass.
- 9.562 Any sign associated with premises that have been vacated shall be either removed from the premises by the owner or lessee within three (3) months of the time of the vacation, or said sign shall be altered or resurfaced by the owner or lessee within the same time period so that it does not display letters, numerals, symbols, figures, designs, or any other device for visual communication that would pertain to the activity formerly associated with the vacated premises.
- 9.563 Any sign erected in the public right-of-way or on public property shall be deemed abandoned and may be removed by the Building Inspector without notice or compensation to the owner. Removal by the Building Inspector shall not affect penalties applicable for the unlawful erection or placement of the sign in the public right-of-way or on public property.
- 9.564 The erection or maintenance of any sign in violation of this Ordinance is a misdemeanor and shall be subject to the penalties set forth in Section 11.9 of this Ordinance.
- 9.57 *Traffic Control Devices on Private Property.* When the owner of real property allows it to be used by the public for the purpose of vehicular traffic and/or as a public or quasi-public parking lot for the use of customers, tenants or employees of said property, the owner shall erect and maintain all traffic control signs and other devices in accordance with the Alabama Manual on Uniform Traffic Control Devices, and any revisions thereof.
- 9.58 *Permitted Signs.*

9.581 Signs Permitted in Residential Districts.

- 9.5811 One wall sign, not to exceeding two square feet in area shall be permitted for each dwelling unit. Such sign may contain a noncommercial message or a commercial message related to an activity lawfully conducted on the premises in accordance with Section 7.23 (Home Occupations) or other applicable sections of this Ordinance. Such sign shall not be separately illuminated.
- 9.5812 Each occupied lot in a residence district shall be allowed one permanent ground sign and an unlimited number of temporary ground signs, which shall not be separately illuminated, shall not exceed six and one-half (6.5) square feet in area and shall not exceed five (5) feet in height. The permanent sign may not contain a commercial message, and no more than three such signs on any lot at one time may contain a commercial message. The only commercial messages permitted on such signs are messages related to commercial activity lawfully conducted on the premises, including the lawful, occasional sale of personal property (such as through a garage sale or a yard sale) or the sale, rental or lease of the premises. Signs related to the sale of personal property shall be removed within twenty-four hours after the end of the sale. Signs related to the sale, lease or rental of the premises shall be removed no later than the date on which the deed, lease or other document representing the transaction is completed. Any such sign may contain any message other than a commercial message. If a message relates to an election or special event, it shall be removed within seven (7) days following the conclusion of such election or other event.
- 9.5813 As a temporary use accessory to the permitted activity of lawful subdivision development, one temporary signs at each principal entrance to the subdivision; there shall in no case be more than one such sign for a subdivision or development with 50 or fewer lots included in the subdivision or development and no more than two such signs for any subdivision or development. Such sign shall not be illuminated and shall not exceed thirty-two (32) square feet in area; such sign shall be removed upon the earlier of the following: installation of a permanent neighborhood identification sign; sale of more than ninety percent (90%) of the lots in the subdivision; or the expiration of two (2) years from the date of installation.
- 9.5814 Any school, house of worship, recreation center or other institutional use permitted in these districts may have two freestanding signs, not to exceed seventy-five (75) square feet in area per sign. This may include changeable copy signs, not to exceed thirty percent (30%) of the sign area. Such signs may be illuminated and shall not be located any closer than ten (10) feet from the pavement edge or edge of the street or thoroughfare to which said sign is directed, nor within the sight triangle defined by Section 9.525. Each such use shall also be allowed one wall sign for each public entrance to the institutional use; such wall signs shall not exceed four square feet each and shall not be separately illuminated.
- 9.5815 In required off-street parking areas, signs conforming with the Alabama Manual of Uniform Traffic Control Devices and containing no commercial message.
- 9.5816 Detached signs not more than two (2) square feet in area and four (4) feet in height, provided that such signs shall contain no commercial message and shall not be separately illuminated.
- 9.5817 For permitted uses other than single-family residences, wall signs not more than two (2) square feet in area, provided that such signs shall contain no commercial message and shall not be separately illuminated.

9.582 Signs Permitted in Business and Industrial Districts.

9.5821 Detached Signs.

- a. In the B-1 Local Business District and the M-1 and M-2 Industrial Districts, there shall be a maximum of one detached sign per premises, which sign shall not exceed seventy-five (75) square feet in area and shall not exceed twenty-one (21) feet in height.
- b. In the B-2 Local Business District, there shall be a maximum of one detached sign per premises, plus one additional detached sign for any premises with a lot lines abutting public streets totaling more than 1,000 linear feet; such signs shall not exceed seventy-five (75) square feet in area and shall not exceed twenty-one (21) feet in height; where there is more than one detached sign on a premises, such signs shall be separated by at least 500 feet.

9.5822 Wall Signs. In the B-1 and B-2 Local Business Districts and the M-1, and M-2 Industrial Districts, wall signs shall be allowed in accordance with the following standards:

- a. The size of all wall signs for an establishment shall not exceed the lesser of three hundred (300) square feet or twenty (20) percent of the building wall to which the sign is attached;
- b. Signs mounted on mansards, marquees, and awnings are deemed to be wall signs;
- c. Wall signs shall be permitted for each of the following:
 - i. For an establishment that is the sole occupant of a principal building, signs shall be allowed on one wall;
 - ii. In a shopping center or other multi-tenant building, each establishment with an exterior entrance used by the general public shall be allowed to have wall signs on the wall with such entrance;
 - iii. In a shopping center, office building or other multi-tenant building occupied by one or more establishments without exterior entrances used by the general public, wall signs conforming with this subsection shall be allowed on one wall, in addition to any signs allowed for individual establishments with exterior entrances.

9.5823 Changeable Copy Signs. Up to twenty-five percent (25%) of the copy area of any permitted sign larger than fifty (50) square feet may consist of changeable copy area; copy in such area may be changed by a person or electronically, provided that any electronically changeable copy sign shall be programmed so that it does not change more than one time per minute.

9.5824 Window Signs. In the B-1 and B-2 Local Business Districts, any establishment with windows on the first floor may display window signs covering not more than twenty-five percent (25%) of the window area, provided that no such sign: shall be separately illuminated; shall be legible at a distance of more than six feet.

9.5825 A temporary sign will be permitted on each premises for a new business or a business starting in a new location where the premises is without a permitted permanent sign. The temporary sign shall not exceed thirty-two (32) square feet in area or, ten (10) feet in height; such sign shall not be separately illuminated. Said sign may be single or double faced. Such sign shall be removed upon the earlier of the following: the expiration of sixty (60) days from the date of installation; or the mounting or installation of a permanent sign permitted by this ordinance.

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- 9.5826 A combination of temporary decorative signs, pennants, banners, streamers, bunting, flying paraphernalia, and tethered inflatable signs may be permitted to a premises owner for no more than fourteen (14) continuous calendar days in any six (6) month period.
- 9.5827 In parking areas, signs conforming with the Alabama Manual of Uniform Traffic Control Devices and containing no commercial message.
- 9.5828 Detached signs not more than four (4) square feet in area and four (4) feet in height, provided that such signs shall contain no commercial message and shall not be separately illuminated.
- 9.5829 Wall signs not more than two (2) square feet in area, provided that such signs shall contain no commercial message and shall not be separately illuminated.
- 9.58210 In addition to all other signs permitted, each premises in the Business and Industrial Districts shall be allowed one temporary detached sign, which sign: shall bear no commercial message; shall not exceed sixteen (16) square feet in area or eight (8) feet in height; shall not be installed in the sight triangle defined by Section 9.525; and shall not be separately illuminated.
- 9.59 *Flags.* The display of flags in the city is expressly permitted, subject to the following standards and conditions:
- 9.591 *Residential Zoning Districts.* Flags and flagpoles shall be allowed in accordance with the following standards in the R-1, R-2 and R-3 Residential Zoning Districts for residential and permitted institutional uses in such districts:
- 9.5911 There shall be no more than one flagpole on a lot;
- 9.5912 No flag shall bear a commercial message; and
- 9.5913 No flagpole shall exceed 20 feet in height.
- 9.592 *Business and Industrial Zoning Districts.* Flags and flagpoles shall be allowed in accordance with the following standards in the B-1, B-2, M-1 and M-2 Zoning Districts for permitted nonresidential and industrial uses:
- 9.5921 There shall be no more than three flagpoles per principal building on any development site;
- 9.5922 Each flagpole must be within thirty (30) feet of the principal entrance to the building to which it is oriented;
- 9.5923 One flag on each lot in a Business or Industrial District may contain a commercial message related to commercial activity lawfully conducted on the premises; and
- 9.5924 No flagpole in these districts shall exceed thirty (30) feet in height.
- 9.593 *Conditions Applicable in All Zoning Districts.* The following conditions shall apply to the display of flags in all zoning districts:
- 9.5931 A flagpole shall be set back at least 5 feet from any property line; and
- 9.5932 No rooftop flagpoles shall be permitted in any zoning district.
- 9.60 *Substitution of Message.* Any sign allowed under this section or a predecessor ordinance, by sign permit, by conditional use permit, or by variance, may contain, in lieu of any other message or copy, any lawful noncommercial message that does not direct attention to a business operated for profit, or

to a product, commodity, or service for sale or lease, or to any other commercial interest or activity, so long as said sign complies with the size, height, area, and other requirements of this Ordinance.

(Ord. No. 05-2006, § 2(9.5), 6-26-2006)

9.61 *Display of political signs.* It is the candidates' responsibility to ensure that the volunteers and sign contractors who distribute and erect political signs during an election are doing so in compliance with this law. Candidates are responsible to remove such signs within seven days following the conclusion of an election or event as set out in section 9.5812 of the zoning ordinance. Candidates will be held responsible for violations.

(Ord. No. 06-2015, § 1, 9-14-2015; Ord. No. 2018-05, 10-22-2018)

ARTICLE X. EROSION AND SEDIMENT CONTROL

10.1. Plan requirement.

An erosion and sediment control plan shall be a part of the construction plans for all developments in flood or erosion prone areas of Atmore's jurisdiction. Such plan shall accompany any application for subdivision, PUD or zoning approval, building permit, excavation, or other construction activity whenever the proposed activity is to be undertaken on a tract comprising more than five acres, if more than five contiguous acres is to be uncovered.

10.2. Plan submission and review.

Whenever the area to be disturbed comprises more than one acre, four (4) copies of the plan shall be filed with the Zoning Administrator at the time of application for a Land Use Certificate and Building Permit. A copy of the plans shall also be on file at the job site. If the Zoning Administrator and/or the City Engineer determines, either upon review of such plan or on inspection of the job site, that a significant risk of off-site sedimentation or erosion exists, he will require that a revised plan be prepared. Pending the preparation of the revised plan, the work shall be either suspended or continued under conditions outlined by the Building Inspector or the City Engineer. The applicant shall be responsible for all fees and costs incurred during the review process.

10.3. Plan content.

Erosion and sediment control plans shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to describe accurately the proposed development of the site and the measures planned to meet the Basic Control Objectives. Plan content may vary to meet the needs of the specific site conditions, but must show, at a minimum, the best management practices (BMP's) which will be used to control site erosion during and after construction.

10.31 Some BMPs include:

- Mulching
- Sodding
- Holding tanks
- Sedimentation control basins
- Clean up practices
- Detention basins

Porous pavements
Infiltration systems
Channel storage
Recreational area storage
Diversion structure
Ponds
Aeration of soils
Minimize disturbed land area
Minimize the duration of exposure of natural elements
Retain natural vegetation

10.4. Protection of property.

Persons engaged in land disturbing activities shall take all reasonable measures to protect all public and private property, including roadways, from damage by such activities.

10.5. Basic control objectives.

The best control objectives which should be considered in developing and implementing an erosion and sediment control plan are to:

- 10.51 *Identify Critical Areas.* On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.
- 10.52 *Limit Exposed Areas.* All land disturbing activities should be planned and conducted to minimize the size of the area to be exposed at any one time.
- 10.53 *Limit Time of Exposure.* All land disturbing activities should be planned and conducted to limit exposure to the shortest feasible time.
- 10.54 *Control Surface Water.* Surface water runoff originating upgrate of exposed areas should be controlled to reduce erosion and sediment loss during exposure.
- 10.55 *Control Sedimentation.* All land disturbing activities should be planned and conducted so as to minimize off-site sediment damage.
- 10.56 *Manage Stormwater Runoff.* When the increase in the peak rates and velocity of stormwater runoff resulting from land disturbing receiving ditch or stream channel, plans are to include measures to control both the velocity and rate of increase so as to minimize accelerated erosion and increased sediment deposition in the ditch or stream channel.

10.6. Standards.

10.61 *Mandatory Standards.* No land disturbing activity to these provisions and guidelines shall be undertaken except in accordance with the following requirements:

- 10.611 No land disturbing activity shall be permitted in proximity to a lake, natural watercourse, or adjacent property where applicable unless a buffer zone is provided along the boundary of sufficient

width to confine visible siltation and/or prevent erosion, provided that the land disturbing activity is not in connection with the construction of facilities to be located on, over, or under a lake, natural watercourse, or adjacent property.

10.612 The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 30 working days of completion of final grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.

10.613 Whenever land disturbing activity is undertaken on a tract comprising more than one acre, if more than one contiguous acre is uncovered, a ground cover sufficient to restrain erosion must be planted or otherwise provided within 30 working days on that portion of the tract upon which further active construction is not being undertaken, provided, that this activity shall not apply to cleared land forming the basin of a reservoir later to be inundated.

10.62 *Design and Performance Standards.* Erosion and sediment control measures, structures, and devices shall be so planned, designed, and constructed as to provide control from the calculated peak rates of runoff from a ten-year frequency storm. Runoff rates may be calculated using the procedure in the USDA, Natural Resources Conservation Services "National Engineering Field Manual for Conservation Practices," or other acceptable calculation procedures. Runoff computations shall be based on rainfall data published by the National Weather Service for the area.

10.7. Other requirements.

10.71 *Permanent Downstream Protection of Stream Banks and Channels.* Provision shall be made for the permanent protection of off-site stream banks and channels from the erosive effects of increased velocity and volume of stormwater runoff resulting certain land disturbing activities.

10.711 A combination of storage and controlled release of stormwater runoff may be required for highway construction; commercial, industrial, educational, and institutional developments of one acre or more; and, for single-family developments of ten acres or more.

10.712 Detention, storage and controlled release will not be required in those instances where the person planning to conduct the activity can demonstrate that the stormwater release will not cause an increase in accelerated erosion or sedimentation of the receiving ditch, stream channel, or other drainage facility, taking into consideration any anticipated development of the watershed in question.

10.72 *Borrow and Waste Areas.* When the person conducting the land disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained shall be considered as part of the land disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land disturbing activity.

10.73 *Access and Haul Roads.* Temporary access and haul roads, other than public roads, constructed or used in connection with any land disturbing activity shall be considered a part of such activity.

10.74 *Operations in Lakes and Natural Watercourses.* Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the stream flow characteristics, except when justification for significant alteration to flow characteristic is provided.

10.8. Responsibility for maintenance.

The person engaged in or conducting the land disturbing activity shall be responsible for maintaining all temporary and permanent erosion and sediment control measures and facilities during the development of a site. The responsibility for maintaining all permanent erosion and sediment control measures and facilities, after site development is completed, shall lie with the landowner.

10.9. Guidelines for erosion and sediment control practices.

Persons engaged in planning, designing, installing and maintaining sediment control measures may use generally accepted references on the subject following standard engineering and/or agricultural practices. All plans will be subject to review by the Erosion and Sediment Control Specialist, the Building Inspector and the City Engineer.

10.10. Additional measures.

Whenever the Building Inspector and/or the City Engineer determines the significant sedimentation is occurring as a result of a land disturbing activity, despite application and maintenance of protective practices, the person conducting the land disturbing activity or the person responsible for maintenance will be required to take additional protective action.

ARTICLE XI. ZONING ADMINISTRATION

11.1. Duties and powers of the zoning administrator.

The provisions of this Ordinance shall be administered and enforced by the Municipal Building Inspector. Duties and powers of the Zoning Administrator shall be as follows:

- 11.11 The Zoning Administrator is authorized and empowered to administer and enforce the provisions of this Ordinance to include receiving applications, inspecting sites, and issuing Land Use Certificates for minor projects and uses and structures which are in conformance with the provisions of this Ordinance.
- 11.12 The Zoning Administrator does not have the authority to take final action on applications or matters involving planning approval, uses not provided for, major projects, variances, special exceptions or amendments which this Ordinance has reserved for consideration by the Planning Commission, the Board of Adjustment, or the City Council or its assigns.
- 11.13 The Zoning Administrator shall keep records of all permits and certificates issued and maps, plats, and other documents with notations of all special conditions involved. He/she shall file and safely keep copies of all sketches and plans submitted, and the same shall form a part of the records of his office and shall be made as a public record.

11.2. Permits and certificates.

Permits and certificates shall be issued in accordance with the following provisions:

- 11.21 *Land Use Certificates.* Before a building shall be added to, erected, reconstructed, structurally altered, moved, removed or demolished, or before a sign requiring a sign permit shall be erected or installed, a Land Use Certificate shall be obtained from the Zoning Administrator showing that such building or sign, as proposed, will conform with this Ordinance. The Certificate shall be issued or denied within

seven (7) days otherwise it shall be deemed to be approved. The Certificate shall be on a form provided by the Zoning Administrator and no fee shall be charged. Said Certificate shall be obtained prior to issuance of any building permit and prior to the installation of any sign requiring a sign permit under Section 9.5 but not requiring a building permit.

The applicant may appeal the denial of the Certificate to the Board of Adjustments in writing within twenty (20) calendar days after the rejection of the application.

Each application for a Land Use Certificate shall be accompanied by a plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the size, shape, height and location of the building to be erected, dimensions and locations of existing buildings, and width of front, side and rear yards. Written evidence of applications for all required permits showing compliance with regulations of the Corps of Engineers, Alabama Department of Environmental Management and Escambia County Health Department shall accompany the application and plot for a Land Use Certificate, and the Land Use Certificate may be conditioned upon the actual receipt of said permits by the applicant. When application is made to build upon a lot of nonconforming size, the application shall be accompanied by an affidavit that said lot was a lot of record as of the date of passage of this Ordinance.

A Land Use Certificate shall be valid for the issuance of a building permit for one hundred eighty (180) days after issuance. After that time a new Certificate must be obtained. A record of the application and plot plan shall be kept in the files of the Zoning Administrator for a period of not less than three (3) years.

The Zoning Administrator may revoke a Land Use Certificate issued in a case where there has been a false statement or misrepresentation in the application or on the plot plan for which the Certificate was issued or if after a documented warning has been issued the applicant has failed to comply with the requirements of this Ordinance. Revocation of the Land Use Certificate shall also cause suspension of the building permit until such time as in the judgment of the Zoning Administrator, the applicant is in compliance with the requirements of this Ordinance.

The Zoning Administrator shall circulate project applications to the City Engineer and the Planning Commission for review at the time of submission of the application.

11.22 *Building Permits.* It shall be unlawful to commence the excavation for or the construction of any building or other structures, including accessory structures, or to store building materials or erect temporary field offices, or to commence the moving, alteration, or repair of any structure, including mobile homes and accessory structures, until the Building Inspector has issued for such work a building permit including a statement that the plans, specifications and intended use of such structure in all respects conform with the provisions of this Ordinance. Application for the building permit shall be made to the Building Inspector on forms provided for that purpose.

11.23 *Approval of Plans and Issuance of Building Permits.* It shall be unlawful for the Building Inspector to approve any plans or issue a building permit for any excavation or construction until he has inspected such plans in detail and found them in conformity with this Ordinance. To this end, the Building Inspector shall require that every application for a building permit for excavation, construction, use of land, moving or alteration be accompanied by a plan or plat drawn to scale and showing sufficient detail to enable the Building Inspector to ascertain whether the proposed excavation, construction, use of land, moving or alteration is in conformance with this Ordinance. Such plan or plat shall include, as a minimum:

11.231 The actual shape, proportion and dimensions of the lot to be built upon;

11.232 The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot;

11.233 The existing and intended use of all such buildings or other structures;

11.234 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 whether the provisions of this Ordinance are being observed.

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

11.24 *Certificate of Occupancy.* No land or building or other structure or part thereof hereafter erected, moved or altered in its use shall be used until the Building Inspector shall have issued a Certificate of Occupancy stating that such land or structure or part thereof is found to be in conformity with the provisions of this Ordinance. It shall be the duty of the Building Inspector to make a final inspection thereof, and to issue a Certificate of Occupancy if the building or premises or part thereof is found to conform with the provisions of this Ordinance or, if such certificate is refused, to state the refusal in writing with the cause.

11.25 *Continuance of Previously Issued Permits and Certificates.* All permits and certificates which were previously issued shall not be affected by the provisions of this Ordinance, except as otherwise provided herein.

(Ord. No. 05-2006, § 2(11.2), 6-26-2006)

11.3. Duties and powers of the planning commission.

11.31 The Planning Commission shall hold public hearings and take action on matters which require Planning Approval as may be required by the Code of Alabama. (This includes subdivisions and comprehensive plans and amendments to each.)

11.32 The Planning Commission shall adopt subdivision regulations pursuant to Code of Alabama § 11-52-31.

11.33 The Planning Commission shall make recommendations to the City Council on all requests for Zoning Amendments.

11.34 The Planning Commission shall take action on all major projects as defined in this ordinance.

11.35 The Planning Commission shall approve or disapprove subdivision plats pursuant to Code of Alabama § 11-52-32.

(Ord. No. 02-2014, § 4, 4-21-2014)

11.4. Procedure for a hearing before the planning commission.

11.41 An application to approve a subdivision plat should be submitted in writing to the office of the Zoning Administrator at least 30 days prior to the regularly scheduled meeting of the City Planning Commission. The application must be on official City forms and must be accompanied by data, maps and plans that are adequate, in the opinion of the Zoning Administrator, to support the application.

11.42 The application shall come before the Planning Commission at its next regular meeting following receipt of a correctly completed application and staff report on same.

11.43 Before acting on any application requiring a public hearing, the Planning Commission shall ensure that proper legal notice is given.

11.44 The Planning Commission shall take action on applications for a subdivision plat within 30 days from the date of submission of the plat.

11.45 Any application may be withdrawn prior to action thereon by the Planning Commission at the discretion of the applicant initiating the request upon written notice to the Zoning Administrator.

11.46 A property owner, or his appointed agent, shall not initiate action affecting the same parcel of land more often than once every 12 months.

(Ord. No. 02-2014, § 4, 4-21-2014)

11.5. Duties and powers of the board of adjustment.

11.51 The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance.

11.52 The Board of Adjustment shall hear and decide Special Exceptions to the terms of this Ordinance or to any regulation required under this Ordinance.

11.53 The Board of Adjustment shall authorize upon appeal in specific cases such variance from the terms of this Ordinance or regulation required thereunder as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance or regulation required thereunder will result in unnecessary hardship and so that the spirit of this Ordinance or regulation required thereunder shall be observed and substantial justice done; provided, however, that the foregoing provisions shall not authorize the Board of Adjustment to approve a use not permitted by this Ordinance or regulation required thereunder.

11.6. Procedure for appeals to the board of adjustment.

11.61 Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer or department of the City of Atmore affected by any decision of any administrative officer representing the City in an official capacity in the enforcement of this Ordinance or regulation required thereunder. Such appeal shall be taken within thirty (30) days of said decision by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof and a fee of seventy-five dollars (\$75.00). The officer from whom the appeal is taken shall transmit forthwith to the Board of Adjustment all papers constituting the record upon which the action was taken.

11.62 An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a Court of Record on application and notice to the officer from whom the appeal is taken and on due cause shown.

11.63 The Board of Adjustment shall fix a reasonable time for hearing the appeal, give public notice to the interested parties and decide the appeal within a reasonable time. Any party may appear in person, by agent, or by an attorney.

11.64 In exercising its authority, the Board of Adjustment may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as should be made and, to that end, shall have all the powers of the officer from whom the appeal is taken.

11.65 The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or decide in favor of the applicant on any matter upon which it is required to pass under this or any such Ordinance or to effect any variation in such Ordinance or regulation required thereunder.

11.66 Any party aggrieved by a final judgment or decision of the Board of Adjustment may, within fifteen (15) days thereafter, appeal therefrom to the Circuit Court of Escambia County, Alabama, by filing with the Circuit Court and the Board of Adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken. In case of such appeal, the Board of Adjustment shall cause a transcript of the proceedings and the action to be certified to the Court to which the appeal is taken, and the action of such court shall be tried de novo.

11.7. Duties and powers of the Atmore City Council.

11.71 The Atmore City Council shall adopt any Ordinance or regulation necessary to effect the provision of zoning in the City of Atmore.

11.72 The Atmore City Council may levy permit and application fees deemed necessary to administer this Ordinance or regulation required thereunder.

11.73 The Atmore City Council may adopt such administrative rules and procedures as it deems necessary to carry out the provisions of this Ordinance or any regulation required thereunder.

11.74 The Atmore City Council shall adopt any amendment to this Ordinance or regulation required thereunder.

11.8. Procedure for zoning action by the Atmore City Council.

11.81 A recommendation for adoption of any Ordinance, regulation or amendment thereto shall be made by the Atmore Planning Commission.

11.82 The Atmore City Council shall fix a reasonable time for consideration of the recommendation and give public notice thereof.

11.83 Before adoption of any proposed Ordinance, regulation or amendment thereto, said Ordinance, regulation or amendment shall be published in accordance with procedures as set out in applicable Section(s) 11-52-77, 1975 Code of Alabama and amendments thereof.

11.9. Penalties and remedies.

11.91 *Penalties.* It shall be a Class A misdemeanor punishable as provided by State Law for any person, firm, partnership, association or corporation to violate any provision of this Ordinance.

11.92 *Remedies.* Should any building or structure be erected, constructed, altered, repaired, converted or maintained, or land used in violation of this Ordinance, the City Attorney, or other appropriate Administrative Officer of Atmore shall institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of the land or to restrain, correct, or abate such violation, or to prevent the occupancy of any such building, structure, or to prevent any illegal act, conduct, business, or misuse in or upon any premises regulated under the authority of this Ordinance.

11.93 *Fines.* In addition to the foregoing, the Atmore City Council is authorized to adopt ordinances or regulations providing for a penalty in the form of a fine for the violation of the provisions of this Ordinance or any regulation promulgated thereunder; provided that such fine shall not be less than one hundred (\$100.00)

and not more than five hundred (\$500) and cost of court for such offense. Each day such violation continues shall constitute a separate offense.

11.10. Enforcement.

11.101 Whenever the Zoning Administrator, Building Official or other duly appointed Administrative Officer of the City determines that a violation of this Ordinance exists, he shall give written notice of the violation to the occupant, applicant and the owner shown on the most recent tax roll of Escambia County. A copy of such written notice shall be transmitted to the City Attorney.

11.1011 *Content.* The notice shall include but not be limited to:

- a. A description of the location of the property involved, either by street address or by legal description.
- b. A statement indicating the nature of the violation.
- c. A statement showing the time within which all necessary remedial action must be accomplished which time may not be less than ten (10) days nor more than sixty (60) days from the date of such written notice.
- d. The name of the person upon whom the notice of violation is served.
- e. A statement advising that upon the failure to comply with requirements of the notice, such enforcement procedure as may be required under this Ordinance shall be taken.

11.1012 *Service.* The written notice required above shall be served upon the person violating the Ordinance and the person owning the land by either personal delivery or certified mail.

11.102 Enforcement. If corrective action is not taken within the time specified in the notice, then the City shall use all available means of enforcement in order to secure compliance with the provisions of this Ordinance.

11.11. Reversionary clause.

Any parcel or parcels of land rezoned to another use classification under the amendment authority of this Ordinance, shall revert back to the prior zoning classification after twelve (12) months from the date of approval of the rezoning if, by that time, said land is not actually being used for a permitted use in the classification to which it was rezoned.

11.12. Fees.

Fees for hearings before the planning commission are established as follows:

11.121 A flat administrative and review fee of seventy-five dollars (\$75.00) shall accompany each request for hearing.

11.122 In addition, the actual costs for legal advertisement of the request, notification to adjacent property owners, engineering reviews and public hearing shall be paid by the applicant prior to any decision by the Planning Commission.

APPENDIX

DATE RECEIVED _____ CASE NUMBER _____ RECEIVED BY _____

PLAN REVIEW FEE _____ RECEIPT NO. _____

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APPENDIX

CITY OF ATMORE APPLICATION FOR LAND USE CERTIFICATE

Applicant: _____ Owner: _____

Address: _____ Address: _____

Telephone No.: _____ Telephone No.: _____

Property Location (Address): _____

Tax Map/Parcel Number: _____

Subdivision/Lot/Unit No.: _____

Property Zoning Classification: _____ Flood Zone: _____

PROJECT DESCRIPTION:

Single-family: _____ Office: _____ Public/Semi-Public: _____ Duplex: _____

Commercial: _____ Addition: _____ Multifamily: _____ Industrial: _____

Alterations/Repair: _____ Other (specify): _____

PROPOSED SETBACKS:

Front Yard: _____ Rear Yard: _____ Side Yards: ____ & ____ Building Height: _____

Lot size (acres): _____ Lot dimensions: _____ × _____

WATER SUPPLY: WASTEWATER SYSTEM:

Well: _____ Septic Tank: _____

Water System: _____ Sewer System: _____

Signature of Applicant: _____ Date: _____

(Owner of Property or Official Representative of Owner): _____

APPROVED: _____ DENIED: _____

REASON FOR DENIAL: _____

REVIEWED BY: _____

ZONING ADMINISTRATOR SIGNATURE: _____ DATE: _____

APPLICATION FOR ZONING ORDINANCE AMENDMENT

State of Alabama)

County of Escambia)

City of Atmore)

This is to certify that I (we), the undersigned, do hereby request the City of Atmore, Alabama to grant a zoning ordinance amendment for the property as indicated below, and for the reasons stated:

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Description of Property

Address: _____

Name of Subdivision Plat: _____

Lot Numbers Involved in Change: _____ Total Acreage of Change: _____

Book/Page Number: _____ Owned in Whole by the Undersigned? _____

If Owned in Part, Name(s) of Co-Owner(s): _____

Zoning Change Requested

Present Classification of Property: _____

Reclassification Desired: _____

Character of Neighborhood: _____

Reason for the Request:

- The following must accompany the request for zoning ordinance amendment.
- Two copies of a list of the names and addresses of the owners of all adjacent property owners.
- Two copies of a map or plat, drawn to scale, showing the existing and proposed zoning reclassification and other pertinent information.
- Two copies of the legal description of the property to be rezoned.
- Fifty dollars (\$50.00) filing fee.

Applicant's Name: _____

Address: _____

Telephone Number: (____) _____ - _____

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Owner

Owner

LAND USE CERTIFICATE

State of Alabama)

County of Escambia)

City of Atmore)

This is to certify that the land use proposed at:

Location:

Description:

Proposed Use:

is in conformance with the requirements of the Zoning Ordinance of the City of Atmore, Escambia County, Alabama.

Dated this _____ day of _____, 19____.

Municipal Building Inspector, City of Atmore, Alabama

NOTICE OF NONCONFORMANCE

This property is hereby cited as being in violation of the Zoning Ordinance of the City of Atmore. The reason for this citation is as follows:

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Contact the Municipal Building Inspector within seven (7) working days from the date of this notice.

Municipal Building Inspector

Date

NOTICE OF NONCONFORMANCE

CITY OF ALABAMA

APPLICATION FOR ZONING VARIANCE

State of Alabama)

County of Escambia)

City of Atmore)

This is to certify that I (we), the undersigned, do hereby request the City of Atmore, Alabama Board of Adjustment to grant a variance to the City's Zoning Ordinance as indicated below, and for the reasons stated.

Article(s) and Section(s) for which the variance is requested

Nature of the variance requested

Reason for the request

Dated this _____ day of _____, 19____.

Owner or Authorized Representative

CITY OF ALABAMA

LAND USE CERTIFICATE

State of Alabama)

County of Escambia)

City of Atmore)

This is to certify that the land use proposed at:

Location:

Description:

Proposed Use:

is in conformance with the requirements of the Zoning Ordinance of the City of Atmore, Escambia County, Alabama.

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Dated this _____ day of _____, 19____.

Municipal Building Inspector, City of Atmore, Alabama

CITY OF ATMORE

NOTICE OF NONCONFORMANCE

This property is hereby cited as being in violation of the Zoning Ordinance of the City of Atmore. The reason for this citation is as follows:

Contact the Municipal Building Inspector within seven (7) working days from the date of this notice.

Municipal Building Inspector

Date

NOTICE OF NONCONFORMANCE

CITY OF ATMORE

APPLICATION FOR ZONING ORDINANCE AMENDMENT

State of Alabama)

County of Escambia)

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City of Atmore)

This is to certify that I (we), the undersigned, do hereby request the City of Atmore, Alabama to grant a zoning ordinance amendment for the property as indicated below, and for the reasons stated:

Description of Property

Address: _____

Name of Subdivision Plat: _____

Lot Numbers Involved in Change: _____ Total Acreage of Change: _____

Book/Page Number: _____ Owned in Whole by the Undersigned? _____

If Owned in Part, Name(s) of Co-Owner(s): _____

Zoning Change Requested

Present Classification of Property: _____

Reclassification Desired: _____

Character of Neighborhood: _____

Reason for the Request: _____

The following must accompany the request for zoning ordinance amendment:

- Two copies of a list of the names and addresses of the owners of all adjacent property owners.
- Two copies of a map or plat, drawn to scale, showing the existing and proposed zoning reclassification and other pertinent information.
- Two copies of the legal description of the property to be rezoned.
- Fifty dollars (\$50.00) filing fee.

Applicant's Name: _____

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Address: _____

Telephone Number: (____) _____ - _____

Owner

Owner

ARTICLE XII. WIRELESS TELECOMMUNICATIONS FACILITIES

12.1. Findings and statement of intent.

1. Atmore is a small city, rich in natural and historic resources. The comprehensive plan, which was adopted in 2010, identifies the preservation of these resources as a key element in fostering small-town family values, in promoting thoughtful development, and enhancing the quality of life for each resident. Facilitating the development of wireless telecommunication facilities can further these goals, but only if the negative impact of these facilities are minimized, and where possible, eliminated. The purpose of this article is to insure that the development of wireless facilities within the city is consistent with the comprehensive plan, and to protect the public health safety and welfare from the adverse impacts of these facilities. This article will:
 - (a) Establish application and approval procedures for facilities.
 - (b) Provide for an expedited administrative process for minor changes to certain eligible facilities, as defined herein.
 - (c) Protect residential areas from the adverse impacts of facilities that are not compatible with the surrounding land uses.
 - (d) Require site sharing of facilities and their associated on-ground components.
 - (e) Provide reasonable design, landscaping and construction standards that will minimize adverse visual impact of facilities and ensure that such facilities are soundly constructed, maintained and removed when no longer used or determined to be structurally unsound.
2. The Federal Communications Act of 1934, as amended by the Telecommunications Act of 1996, recognizes and preserves the city's police power and general regulatory authority over the placement, construction and modification of wireless telecommunications facilities, subject to the following:
 - (a) The regulations may not unreasonably discriminate among providers of functionally equivalent services.
 - (b) The regulations may not prohibit, or have the effect of prohibiting, the provision of personal wireless services.
 - (c) Decisions on applications to construct or modify a wireless facility must be acted upon within a reasonable period of time.
 - (d) The city may not regulate facilities on the basis of environmental effects of radio frequency emissions, but may require facilities to comply with FCC standards.

-
- (e) The decision to deny an application must be in writing and supported by substantial evidence contained in a written record.

(Ord. No. 05-2013, 5-13-2013)

12.2. Administration; rule of construction.

The code enforcement officer or designee shall administer this article. In the event there is a conflict between the requirements of this article and the other provisions of the zoning ordinance, the requirements of this article shall prevail.

(Ord. No. 05-2013, 5-13-2013)

12.3. Definitions.

In addition to the definitions contained in article IV, the following definitions and rules of construction shall apply to this article without regard to the rules of capitalization. In the event of a conflict, the definitions in this article shall control.

Accessory equipment means any equipment serving or being used in conjunction with a telecommunications facility or antenna support structure. Accessory equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets, storage sheds, shelters, base stations or other structures.

Administrative permit means the permit granted by the code enforcement officer after finding that an eligible facilities request meets the requirements of this article and is appropriate for expedited permitting as set forth in section 12.8.

Antenna means any structure or device used to collect or radiate electromagnetic waves for the provision of wireless telecommunications services including, but not limited to, cellular, paging, personal communication services and microwave communications. Such structures and devices include directional antennas, microwave dishes, satellite dishes and omnidirectional antennas, such as whips. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

Antenna support structure means any building or structure other than a tower, which can be used to support telecommunications facilities.

Application means the request to place, modify or construct wireless facilities in accordance with this article. The application includes all written documentation, verbal statements and representations, in whatever form, made by an applicant concerning such request.

Camouflage means any technique that is designed to blend telecommunications facilities, with the surrounding environment such as architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look similar to light poles, power poles and trees.

Code official means the code enforcement officer for the City of Atmore or designee.

Co-location means site sharing; i.e., the placement of additional antenna and/or accessory equipment on an existing tower or antenna support structure that is currently permitted for the use of wireless facilities.

Concealed telecommunications facility means any facility that is integrated as an architectural feature of an existing structure or a new support structure designed so that the purpose of the facility or support structure for providing wireless services is not readily apparent to the casual observer.

Communications services means the transmission of writing, signs, signals, pictures, sounds or other forms of intelligence through wire, wireless or other means, including, but not limited to, any "telecommunications service", "cable service", "enhanced service", "information service", or "internet service", as such terms are now, or may in the future be, defined under federal law, and including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

Commission means the planning commission for the City of Atmore, Alabama.

Day means calendar day; "business day" means Monday through Friday.

Eligible facilities request means a request to make minor modifications to existing facilities.

Engineer(s) means any engineer licensed by the State of Alabama and shall include, but not be limited to, RF (radio frequency) engineers, structural engineers or civil engineers who have the requisite training and are competent to certify engineering reports related to the telecommunications industry.

Facilities means wireless telecommunications facilities, as defined herein.

Facilities owner means all of the person(s) who will be responsible for operating the facilities, maintaining the facilities, and who will be providing communications services by use of the facilities.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means the distance measured from the adjacent ground level to the highest point on the tower structure and appurtenances.

Minor modification means any change to an existing facility that does not constitute a substantial change, as determined by the code official, generally including:

1. Replacing a guyed tower with a monopole or unipole, provided the replacement tower otherwise conforms to this ordinance;
2. Replacing a monopole with a unipole, provided the replacement tower otherwise conforms to this ordinance;
3. Replacing visible facilities with concealed facilities, provided the replacement facilities otherwise conform to this ordinance;
4. Co-location of transmission equipment;
5. Replacing transmission equipment;
6. Removal of transmission equipment;
7. Installing a generator that will be used solely for power interruptions.

Substantial change. The following work shall constitute a substantial change:

1. New or replacement towers, unless the code official determines that such tower constitutes a minor change.
2. Increasing the height of an existing tower by more than ten percent;
3. When the mounting of a new antenna would involve the installation of more than four equipment cabinets or more than one new equipment shelter;
4. When the mounting of a new antenna would involve adding an appurtenance to the body of the existing structure that would protrude from the edge of the existing structure more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater,

except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable;

5. When mounting an antenna would involve excavation outside the current existing site, defined as the boundaries of the leased or owned property surrounding the existing structure and any access or utility easements currently related to the site.

Substantial damage means the aggregate of the replacement or reconstruction costs equal to or exceeding 50 percent of the fair market value of the facilities.

Wireless telecommunications facilities or *facilities* means cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications services (other than radio or television broadcast communications) which a person seeks to locate or install upon or near a tower or antenna support structure. This term includes towers. The term "wireless telecommunications facilities" shall not include:

1. Any satellite earth station antenna six feet in diameter or less which is located in an area zoned industrial or commercial.
2. Any satellite earth station antenna three feet or less in diameter, regardless of zoning category.
3. Any federally licensed amateur radio station operators (i.e., ham radio).

Tower means any structure built for the sole or primary purpose of supporting FCC licensed antennas and their associated facilities.

(Ord. No. 05-2013, 5-13-2013)

12.4. Administration; applicability.

1. The code official or designee shall administer this ordinance. All facilities, any portion of which is located within the corporate limits of the city, are subject to this article. This article shall not apply to:
 - (a) Towers used or to be used solely for services provided pursuant to a broadcast radio or television license issued by the FCC;
 - (b) Antennas used for private telecommunications services when the equipment is located on the premises of the entity using said private telecommunication service, or the antenna support structure or masts are located on the primary business premises of a provider of communications services if used to monitor the providers' services, and the equipment used by the broadcaster, private telecommunications, or the provider is in compliance with the city's zoning ordinance, any federal, state or local laws, and does not encroach on the public rights-of-way.
2. Except as allowed in this article, all persons seeking to install, modify or construct facilities in any zoning district must file an application with the code official for a conditional use permit on such forms as may, from time to time be prescribed for that purpose.
 - (a) *Fees.* Fees shall be set by resolution of the city council in an amount sufficient to cover the costs of administering this article.
 - (b) *Other costs.* In addition to the application fee, applicants shall also reimburse the city for any actual, out of pocket costs incurred in reviewing the application, including, but not limited to, RF engineers and other technical consultants.

(Ord. No. 05-2013, 5-13-2013)

12.5. Registration.

The owners of all towers shall, within 60 days from the effective date of this ordinance [article], register the same with the code official. Such registration shall include the height, width and location of each tower. Failure to register an existing tower shall raise a presumption that said tower was not a legal, nonconforming use on the date of passage of this ordinance [article].

(Ord. No. 05-2013, 5-13-2013)

12.6. Nonconforming uses.

The use of any tower or antenna support structure that lawfully existed at the time of adoption of this article may be continued, even though such use may not conform to the requirements of this article, if the owner has complied with the registration requirements of this article.

1. Nonconforming facilities may not be improved, except for minor modifications as allowed by this article.
2. Any nonconforming facility that is substantially damaged or destroyed may not be reconstructed unless it can be reconstructed on its original site in conformity with all of the provisions of this article.
3. Nonconforming facilities must meet or exceed current federal standards and regulations, as amended, and be structurally sound.

(Ord. No. 05-2013, 5-13-2013)

12.7. Administrative permits for minor modifications to eligible facilities.

1. The code official may issue administrative permits for minor modifications to eligible facilities without the necessity of planning approval or a public hearing.
2. To obtain an administrative permit, the owner must submit an eligible facilities request on such forms as may, from time to time, be prescribed by the code official. The application shall provide the information necessary to demonstrate compliance with this article, including, but not limited to, the following:
 - (a) A copy of the lease or letter of authorization from the property owner evidencing applicant's authority to pursue a permit.
 - (b) Site plan, if deemed necessary by the code official.
 - (c) Payment of the nonrefundable fee(s) set forth in the resolution adopted by the city council pursuant to this ordinance.
3. *Procedure.* Within 30 days of the receipt of an application for an administrative permit, the code official shall inform the applicant in writing:
 - (a) That the application is complete and that the work qualifies for an administrative permit;
 - (b) That the application is not complete, stating reasons why the application does not meet the submittal requirements; or
 - (c) That the application does not qualify for an administrative review, and stating the reasons for such determination.
4. *Incomplete applications.* An applicant that receives notice of an incomplete application, or that the application does not qualify for administrative review, may submit additional documentation. An applicant's

failure to complete the application within 30 days after receipt of written notice shall constitute a withdrawal of the application without prejudice. An application withdrawn without prejudice may be resubmitted upon the filing of a new application and the payment of a new fee.

5. *Decision on application.* The code official shall issue a written decision approving, approving with conditions, or denying the request for an administrative permit within 90 days of the submission of the completed application, unless otherwise agreed to by the applicant. In the case of a denial, the code official shall also provide written notice to the applicant of the reasons for the denial.
6. *Right to appeal.* The applicant may appeal any decision of the code official within 30 days to the city council. The burden is on the applicant to demonstrate, by substantial evidence, that the decision was contrary to this ordinance and/or constituted an abuse of discretion.

(Ord. No. 05-2013, 5-13-2013)

12.8. Approval process for new facilities or substantial changes in existing facilities.

Except for administrative permits, the planning commission shall hear and make recommendations to the city council on all applications to place, construct or modify telecommunications facilities in accordance with this article and the procedures set forth in article VI.

1. *Application.* Every person seeking to place, construct, or modify any telecommunications facility must file an application with the code official on such forms as may, from time to time, be prescribed by the official for that purpose. The application shall provide the information necessary to demonstrate compliance with this article, including, but not limited to, the following:
 - (a) All applications shall be signed by or on behalf of the applicant, and shall attest to the truth and completeness of the information contained therein. The landowner, if different than the applicant shall also sign the application.
 - (b) The legal description, property tax map number, and address of the parcel of land upon which the tower is to be situated, or the antenna support structure for location of the telecommunications facilities.
 - (c) Documentation by appropriate engineers demonstrating the following:
 - i. Diligent, unsuccessful efforts to install and co-locate the applicant's towers or telecommunications facilities on existing towers or telecommunications facilities and antenna support structures within a one-half-mile radius of the proposed tower site.
 - ii. Written, technical evidence from an engineer that the proposed tower, antenna support structures, or telecommunications facilities cannot be installed or co-located on another person's tower or cannot use another person's antenna support structure located within a one-half-mile radius of the proposed tower site and must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communication system.
 - (d) A statement that the applicant has no outstanding and overdue debt to the city.
 - (e) An acknowledgement that by signing a permit application, the applicant and facilities owner(s) agree to indemnify and hold harmless the city consistent with indemnification language in section 12.19.
 - (f) Payment of the nonrefundable fee(s) set forth in the resolution adopted by the city council pursuant to this ordinance.

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2. *Procedure.* Within 30 days of the receipt of an application, the code official shall inform the applicant in writing:
 - (a) That the application is complete; or
 - (b) That the application is incomplete, stating reasons why the application does not meet the submittal requirements.
 3. *Incomplete applications.* An applicant who receives notice of an incomplete application may submit additional documentation. An applicant's failure to correct the deficiencies in the application within 30 days after receipt of written notice shall constitute a withdrawal of the application without prejudice. An application withdrawn without prejudice may be resubmitted upon the filing of a new application and the payment of a new fee.
 4. *Recommendation on the application.* After a public hearing, the commission may recommend that the council approve, approve with conditions, or deny a permit. The commission's findings shall be in writing.
 5. *Decision by the council.* The council shall schedule a public hearing on the application at the next regularly scheduled council meeting. The council's decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the granting of the permit shall always be upon the applicant.
 - (a) If the council recommends approval of the permit for telecommunications facilities, then the applicant shall be notified of such approval in writing within ten business days.
 - (b) If the council denies the permit for telecommunications facilities, the applicant shall be notified in writing within ten business days of the city's action, setting forth the reasons for such action.
 6. *Right to appeal.* Any person aggrieved by any final action of the council, or failure of the commission to act on an application within the time set forth in section 11.4 of the zoning ordinance, may commence an action within a court of competent jurisdiction in the State of Alabama.

(Ord. No. 05-2013, 5-13-2013)

12.9. General requirements for all applications.

1. *Public right-of-way.* No facilities may be placed in the public right-of-way without the consent of the city council pursuant to a duly adopted ordinance or resolution.
2. *Priority sites.* Priority for locating of telecommunications facilities will be on existing telecommunications facilities or antenna support structures located on public property identified by the city as available for co-location.
3. *Co-location.* No new tower shall be permitted unless the applicant demonstrates that at least one of the following conditions:
 - (a) No existing towers or suitable structures are located within the geographic area that meets the applicant's engineering requirements and no such towers are under consideration for a permit;
 - (b) Existing towers or other structures are not of sufficient height, lack sufficient structural strength or are otherwise unsuitable and cannot be reasonably altered to meet the applicant's engineering requirements;
 - (c) Co-location would have a more detrimental environmental, aesthetic, or visual impact on the surrounding area that [than] would the construction of a new tower.

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4. *Design criteria.* All telecommunications facilities shall be camouflaged or concealed. New towers shall be of monopole or unipole design, have a galvanized finish, or be painted with a rust preventive paint of an appropriate color to blend with the surrounding environment.
 5. *Site plan.* Plans detailing proposed improvements in compliance with articles VI, IX and X of the zoning ordinance. Drawings must also depict improvements related to the requirements listed in this part, including property boundaries, setbacks, topography, elevation sketch, dimensions of improvements, and landscaping.
 6. *Vegetative screening required.* The following landscaping requirements shall be met for the perimeter of the property, exclusive of entrances:
 - (a) One tree for each ten feet, measuring not less than three inches in diameter, at a minimum of four feet above grade.
 - (b) Hedge material at least three feet in height and planted a minimum of three feet on center. The hedge material shall form a contiguous, opaque vegetative screen within one year of planting.
 - (c) Ground cover material which may include grass, pine straw, mulch or other organic material. No artificial turf or non-organic substances shall be used to satisfy this requirement.
 7. *Setbacks and fall zones.*
 - (a) Setback requirements for towers shall be a minimum distance equal to the underlying zoning district.
 - (b) Setback requirements for towers shall be measured from the base of the tower to the line of the lease parcel on which it is located.
 - (c) Every tower shall be designed to fall within the boundaries of the parcel on which the tower is located. The applicant shall submit written certification and supporting documentation from a structural engineer that a tower proposed for construction will fall within the specified fall zone.
 - (d) Towers shall be separated from all residentially zoned lands (i.e., R-1, R-2, R-3) by a minimum of 200 feet or 150 percent of the height of the proposed tower, whichever is greater. Tower separation distances for the purposes of compliance with this item shall be measured from the base of a tower to the closest point of residentially zoned land.
 - (e) In those instances in which there is a conflict between the required setback and the required fall zones, the greater distance shall apply.
 8. *Propagation maps.* The application shall provide copies of propagation maps demonstrating that the proposed facility locations, including co-locator locations, are not higher in elevation than necessary to provide the desired coverage.
 9. *Structural integrity requirements.* All towers, antenna support structures and telecommunications facilities must be designed and certified by an engineer to be structurally sound and at a minimum, in conformance with the currently adopted building code. In addition, towers must be located and equipped with step bolts and ladders so as to provide ready access for inspection purposes. The city may require a post-construction structural analysis from the applicant.
 10. *Grounding.* All towers must be permanently and effectively grounded.
 11. *Height.* New towers shall be no higher than the minimum height necessary to support the facilities. The maximum height of new towers, including antennas attached after the effective date of this article shall be as follows:

Zones B1 and B2: 100 feet

Zones M1 and M2: 190 feet

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12. *Lighting.* Towers shall not be artificially lighted or marked, except as required by this article, the FAA or other regulatory authority.
 13. *Number of providers.* All Towers built, constructed or erected shall be capable of supporting the facilities of other providers (including the applicant's facilities) as follows:
 - (a) Tower heights of 150 feet to 190 feet: not less than four providers;
 - (b) Tower heights of 100 feet to 149 feet: not less than three providers;
 - (c) Tower heights less than 100 feet: not less than two providers.
 14. *Erosion control.* All parcels upon which towers are located must contain adequate drainage facilities, and must comply with all stormwater management regulations.

(Ord. No. 05-2013, 5-13-2013)

12.10. Requirements for facilities and antenna on antenna support structures.

Facilities which are not attached to a tower may be permitted on any water tower, regardless of the zoning district where the structure is located, as long as the facilities meet the requirements of this article. Facilities may be allowed on an antenna support structure, regardless of the zoning district where the structure is located, as long as the facilities are concealed and otherwise meet the requirements of this article.

1. That the height from grade of the telecommunications facilities does not exceed the height allowed in the applicable zoning district or is otherwise approved.
2. Telecommunications facilities shall not be located on any single-family, two-family or multifamily dwelling.
3. Telecommunications facilities shall be located above the primary roof and screened from view through the use of panels, walls, fences or other screening techniques.

(Ord. No. 05-2013, 5-13-2013)

12.11. Inspections and certifications.

1. All towers shall be certified by a structural engineer to be structurally sound and in conformance with the requirements of all applicable federal, state, and local laws and rules. For new towers, such certification shall be submitted with an application and every five years thereafter. For existing towers, such certification shall be submitted within 60 days of the effective date of this ordinance and then every five years thereafter.
2. The towers facilities owner may be required by the city to submit more frequent certifications should there be a reason to believe that the structural and/or electrical integrity of the tower is or has been jeopardized.
3. All towers shall be reasonably posted and secured to protect against trespass.
4. The city and its agents shall have authority enter onto the property upon which a tower is located, between the inspections and certifications required above, to inspect the tower for the purpose of determining whether it complies with applicable construction standards.
5. The city reserves the right to conduct such inspections at any time, upon reasonable notice to the facilities owner.

(Ord. No. 05-2013, 5-13-2013)

12.12. Other requirements.

1. *Maintenance bond.* A maintenance bond in the amount of ten percent of the cost of construction of the tower to ensure that the tower is maintained in a condition that complies with all applicable building standards and regulations, including, but not limited to, the provisions of this ordinance.
2. *Removal bond.* A bond or irrevocable letter of credit in an amount of 30 percent of the installed costs as determined by the permit shall be required to ensure prompt removal of any tower that is abandoned.
3. *Liability insurance.* Proof of general liability insurance for claims for injury or death and property damage in an amount of minimum \$1,000,000.00.
4. *Change of ownership.* The facilities owner and/or landowner or owner of the antenna support structure shall promptly notify the city by certified or registered mail of the sale, transfer, or assignment of any tower, antenna support structure or telecommunications facilities. Each sublease shall be conditioned upon the sublease obtaining the necessary approvals for the subject facility or site from the city prior to siting such facility.
5. *Commercial signs.* No commercial signs or advertising shall be allowed on any towers or telecommunications facilities.
6. *Warning signs.* If high voltage is necessary for the operation of a tower or telecommunications facilities and it is present in a ground grid or in the tower, warnings signs shall be permanently attached to the exterior side of the perimeter fence and located every 20 feet. The signs shall display in bold letters at least eight inches high the following:

"HIGH VOLTAGE: DANGER"
7. *Identification.* Identification tags or signs shall be posted on all towers and telecommunications facilities in accordance with FCC and OSHA requirements. The tags shall include the FCC tower registration number, the latitude and longitude of the Tower, and the name, address, and telephone number of the tower facilities owner. The identification tags shall be posted on the perimeter fence and shall be constructed of durable materials.
8. *Annual NIER certification.* Owners shall submit an annual certification by a qualified engineer that the NIER levels at the site are within the threshold levels adopted by the FCC.

(Ord. No. 05-2013, 5-13-2013)

12.13. Maintenance of towers and facilities.

1. Facilities owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failure and accidents which are likely to cause damage, injuries or nuisances to the public. All towers and telecommunications facilities and antennas shall at all times be kept and maintained in good order and repair.
2. Facilities owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Code and all FCC, state and local regulations, and in such manner that will not interfere with the use of other property.
3. All maintenance or construction on towers, telecommunications facilities, or antenna support structures shall be performed by licensed maintenance and construction personnel.
4. All towers, telecommunications facilities, and antenna support structures shall be maintained in compliance with current radio frequency emission standards of the FCC.

(Ord. No. 05-2013, 5-13-2013)

12.14. Nontransferability of permit.

Permits are valid to the applicant and are nontransferable. The city shall receive notice from an applicant of any change in ownership and the city reserves the right to approve or make changes based on conditions of compliance with this ordinance.

(Ord. No. 05-2031, 5-13-2013)

12.15. Discontinuance of use, abandonment, and removal.

1. In the event the use of a tower is discontinued by the facilities owner, or in the event a facilities owner files notice to the FCC of its intent to cease operating, the facilities owner and/or the landowner shall provide written notice to the city of its intent to discontinue use and the date when the use shall be or was discontinued.
2. If the city receives notice, or if any tower shall cease to be used for a period of 180 consecutive days the city shall notify the facilities owner, with a copy to the applicant, that the site will be subject to a determination that such site has been abandoned. The facilities owner shall have 30 days from receipt of said notice to show, by a preponderance of the evidence, that the tower has been in use or under repair during the period. If the facilities owner fails to show that the tower has been in use or under repair during the period, the city shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the facilities owner shall, within 75 days, dismantle and remove the tower. If a facilities owner fails to remove an abandoned tower within 75 days of the final determination of abandonment, the city may dismantle and remove the tower and recover the costs of same from the facilities owner or by accessing the bond set forth above.

(Ord. No. 05-2013, 5-13-2013)

12.16. Enforcement and reservation of rights.

1. The provisions of this ordinance shall be enforced against all facilities owners of towers, antenna support structures or telecommunications facilities within the city and all facilities owners of property or land upon which towers, antenna support structures or telecommunications facilities are sited.
2. The city shall have the right to withhold any approvals with respect to any application by any such person in the event that it shall find that the person is not in compliance with the provisions of this ordinance until such noncompliance has been cured.
3. The city reserves the right to impose any other reasonable conditions it determines are necessary for the proper placement, construction, or modification of towers, antenna support structures or telecommunications facilities, and to impose any other reasonable conditions on the issuance of a conditional use permit issued by the city for placement, construction, or modification of a tower, antenna support structure or telecommunications facilities.

(Ord. No. 05-2013, 5-13-2013)

12.17. Revocation of permit.

The city may at any time revoke a conditional use permit for any telecommunications facilities for failure to comply with the provisions of this ordinance. To properly revoke a conditional use permit, the city will comply with the procedures set forth below:

1. The city shall provide facilities owner with written notice of a cause for revocation and the intent to revoke and shall allow facilities owner 60 days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with this ordinance. Together with the notice required herein, the city shall provide facilities owner with written findings of fact which are the basis of revocation.
2. The city shall provide facilities owner with the right to a public hearing before the city council, which public hearing shall follow the 60-day notice required above. All interested parties shall be allowed an opportunity to be heard at the public hearing and to present evidence.
3. After the public hearing, the council shall, within 30 business days after the public hearing date, issue a written order setting forth its findings of fact and conclusions of law forming the basis for its decision.
4. Upon written determination by the council to revoke a permit, the facilities owner may appeal the decision to a court of competent jurisdiction in the State of Alabama.
5. Upon satisfactory correction by facilities owner of the violation upon which said notice was given as determined in the city's sole discretion, the initial notice shall become void.
6. Upon facilities owners' failure to correct a violation as found by the city council, the city may issue an order to disconnect any telecommunications facilities attached to a tower or antenna support structure. Said order shall not be issued prior to 30 days from the date of the council's written determination. Said order shall be served upon the facilities owner at its last known address and have attached to it the findings of the council.

(Ord. No. 05-2013, 5-13-2013)

12.18. Compliance with law.

All facilities owners located within the city shall be subject to the regulatory authority of the city as set forth in this ordinance, other applicable ordinances of the city, and state and federal law, including all such ordinances and laws as may be enacted or amended from time to time hereafter.

(Ord. No. 05-2013, 5-13-2013)

12.19. Indemnification.

By accepting a permit, the facilities owner or owners, jointly and severally, agree to indemnify, and hold the city, its elected officials, agents and employees, harmless from all costs, liabilities, and claims for damages of any kind (including reasonable attorneys' fees) arising out of the construction, presence, installation, maintenance, repair or operation of its facilities, whether any act or omission complained of is authorized, allowed, or prohibited by a permit. The facilities owner or owners further agree that it will not bring, nor cause to be brought, any action, suit or other proceeding claiming damages, or seeking any other relief against the city, its elected officials, agents or employees for any claim nor for any award arising out of the presence, installation, maintenance or operation of the facilities, whether the act or omission complained of is authorized, allowed or prohibited by a permit. The foregoing does not indemnify the city for its own negligence. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the facilities owner or to the city; and the facilities owner, in defending

any action on behalf of the city, shall be entitled to assert in any action every defense or immunity that the city could assert in its own behalf.

(Ord. No. 05-2013, 5-13-2013)