

**Zoning Ordinance  
of the  
City of Bay Minette**

**Amended October 5, 2020 – Ordinance 994**

## Prior Adoptions and Amendments

### ORDINANCE NUMBER

Ordinance 959 with Revisions by Reference, Replaced Ordinance 794  
Ordinance 969 Amendment to Ordinance 959  
Ordinance 977 Amendment to Ordinance 959  
Ordinance 992 Replaced Ordinance 959  
Ordinance 993 Amendment to Ordinance 992  
Ordinance 994 Amendment to Ordinance 992

### ADOPTION DATE

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## ARTICLE 1. PURPOSE, ENACTMENT AND TITLE

### 1.1 Purpose

The City of Bay Minette, Alabama, pursuant to the authority granted by Title 11, Subtitle 2, Chapter 52, Articles 1 through 4, *Code of Alabama*, 1975 and 1986 Cumulative Supplement, in order to promote the health, safety, convenience, order, prosperity, and general welfare of the residents; to lessen congestion in the street; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, and parks; to facilitate initiation of the comprehensive plan, and 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:

1.1.1 Considered as minimum requirements;

1.1.2 Liberally construed in favor of the governing body; and

1.1.3 Deemed neither to limit nor repeal any other powers granted under state statutes.

### 1.2 Enactment

An Ordinance of the City of Bay Minette, Alabama, establishing rules and regulations for zoning, classifying land; establishing zoning districts and district requirements.

### 1.3 Title

This Ordinance shall be known and may be cited as the "The Zoning Ordinance of the City of Bay Minette".

## ARTICLE 2. LEGAL STATUS

### 2.1 Authority

The rules and regulations herein set forth are hereby adopted in accordance with Title 11, Subtitle 2, Chapter 52, Articles 1 through 4 of the Code of Alabama, 1975 and 1986 Cumulative Supplement.

### 2.2 Jurisdiction

This Ordinance shall be in force and effect for zoning purposes within the corporate limits of the City of Bay Minette as presently or hereinafter established.

### 2.3 Conflict with Other Laws

Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted statues, rules, regulations or ordinances, the more restrictive, or that imposing the highest standards, shall govern.

### 2.4 Validity and Severability

Each phrase, sentence, paragraph, section or other provision of this Ordinance is severable from all other such phrases, sentences, paragraphs, sections and provisions. Should any phrase, sentence, paragraph, section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect any other portion or provision of this Ordinance.

### 2.5 Disclaimer of Liability

These regulations shall not create liability on the part of the City of Bay Minette, the Bay Minette Planning Commission, the Bay Minette Board of Adjustment or any officer or employee thereof for any damages that may result from reliance on this ordinance or any administrative decision lawfully made hereunder.

### 2.6 Effective Date

This Ordinance shall take effect and be in force from and after the date of its adoption by the Bay Minette City Council; and upon such date, all previous land use ordinances, with all subsequent amendments thereto, are hereby repealed as of the effective date of this Ordinance.



### ARTICLE 3. OFFICIAL PLANS AND MAPS

#### 3.1 Support of the Comprehensive Plan

This Ordinance shall be implemented in support of the Bay Minette Comprehensive Plan. Copies of this plan are filed in the office of the City Clerk.

#### 3.2 Future Land Use Map

The Future Land Use Map contained in the Comprehensive Plan shall serve as a guide for the future development of the City of Bay Minette. To the extent practical, it shall be followed in the administration of this Ordinance.

#### 3.3 Official Zoning District Map

The Official Zoning District Map, Exhibit A, is hereby adopted and made a part of this Ordinance. This map shall be signed by the Mayor and attested by the City Clerk. It shall be filed in the office of the City Clerk and shall show thereon the date of adoption of this Ordinance.

#### 3.4 Amendments to the Zoning Map

If, in accordance with the provisions of this Ordinance, changes are made in the zoning district boundaries or other information portrayed on the Official Zoning District Map, changes shall be made on the map promptly after the amendment has been approved by the City Council. Unauthorized alterations of the Official Zoning District Map shall be considered a violation of this Ordinance and subject to penalties as prescribed herein. In the event of a conflict between the Official Zoning District Map and this ordinance or any amendment thereto, the legal description from the particular ordinance shall control.

#### 3.5 Maintaining Files

The City Clerk shall maintain a file or registry of properties rezoned and variances granted under the authority of this Ordinance together with all pertinent requirements and/or conditions thereto.

**ARTICLE 4. ADOPTION**

This ordinance was adopted by the City of Bay Minette, Alabama, on the \_\_\_\_\_ day of \_\_\_\_\_ 2020.

/s/ \_\_\_\_\_  
Mayor

/s/ \_\_\_\_\_  
City Clerk

I, \_\_\_\_\_, City Clerk of the City of Bay Minette, Alabama, certify that the document described herein, identified as the "Zoning Ordinance Of The City of Bay Minette, Alabama," is a true and correct copy of the Ordinance number \_\_\_\_\_, adopted by the City of Bay Minette, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Seal of the City of Bay Minette.

## ARTICLE 5. DEFINITION OF TERMS

### 5.1 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 word "shall" is always mandatory. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied." The words "zoning map" mean the Official Zoning District Map of the City of Bay Minette.

### 5.2 Words and Terms Defined.

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

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

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

*Agriculture.* The use of land for farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

*Airport.* Any runway, land area or other facility designed and used either publicly or privately by any person for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down area, hangars, and other necessary buildings, and open spaces.

*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.

*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 (4) 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 (1/2) 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 homeowner.

*Best Management Practices (BMPs).* A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

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

*Board.* The Bay Minette Board of Adjustment; a review board authorized to perform certain duties.

*Boarding house, rooming house, lodging house, 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 (3) or more unrelated persons where no cooking or dining facilities are provided in individual rooms.

*Boat repair.* Major overhauling or repair of small craft and pleasure boats that requires open air, partially covered or enclosed dry dock facilities and such heavy equipment, yard space and dock facilities as may be necessary.

*Buffer, right-of-way.* A strip of land running parallel to a public right-of-way, containing landscaping material such as trees, shrubs and/or other plant material.

*Buffer, screen planting.* A strip of land containing planted material used as screening between dissimilar land uses and maintained at a height and width as required elsewhere in this Ordinance.

*Buildable area.* The buildable area is the portion of the lot remaining after the required yards have been delineated.

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

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

*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, existing.* Any structure erected prior to the adoption of the Zoning Ordinance or one for which a legal building permit was issued prior to adoption of the Zoning Ordinance.

*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 official/inspector.* An individual who represents and acts on the behalf of the City in performing the duties and enforcement required by the Zoning Ordinance, Building Code or Subdivision Regulations.

*Building line.* That line behind which the building on a lot must be placed. On regular shaped lots the building line shall be the setback line; on irregular shaped lots the building line shall be the setback line at a location where the lots meet the minimum width requirements of the zone in which they are located; provided they also meet the minimum yard requirements of the zone as specified in this Ordinance.

*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.

*Bulkhead.* A structure separating land and water areas, primarily designed to resist earth pressures.

*Business/Commercial Center.* A group of two or more owners, occupants or tenants with common customer and employee parking provided onsite, and/or connected together by common walls, interior aisles or malls.

*Business/Office Park.* A planned development of one or more office(s) and/or business(es) in a park-like setting.

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

*Bulkhead.* A structure separating land and water areas, primarily designed to resist earth pressures.

*Cabana.* An accessory structure usually used in connection with outdoor bathing or recreation providing enclosed space for showering or changing clothes, with recreational cooking and/or bar facilities including

storage facilities, but no sleeping rooms.

*Campsite.* 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.

*Canopy.* A detachable, roof-like 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.

*Carport, detached.* A detached structure of the type used for the residential storage of automobiles, with at least one side open for access. A detached carport as defined herein shall include a structure that is manufactured or constructed off-site and delivered to the residence for assembly and/or installation.

*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.

*Central sewer system.* All equipment and property involved in the operation of a sanitary sewer utility, including waste water lines and appurtenances, pumping stations, treatment works, disposal facilities, and general property necessary for the operation of such utility, which shall be fully installed, operable, and providing service in compliance with applicable Alabama laws and regulations.

*Central water system.* All of the equipment and property involved in the operation of a water utility, including water lines and appurtenances, pumping stations, treatment works, disposal facilities, and general property necessary for the operation of such utility, which shall be fully installed, operable, and providing service in compliance with applicable Alabama laws and regulations.

*Certificate of occupancy.* Official certification that a premise conforms to provisions of this Ordinance and Building Codes 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 therefore 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 water course of perceptible extent, with bed and banks to confine and conduct continuously or periodically flowing water.

*City.* The City of Bay Minette, Alabama.

*City Council.* The chief legislative body of the City of Bay Minette, Alabama.

*City Planner.* An individual, and/or their designee, who represents and acts on the behalf of the City in performing the duties and enforcement required by the Zoning Ordinance and/or Subdivision Regulations. See also – *zoning administrator*.

*City engineer.* A State Certified Engineer acting on behalf of the City of Bay Minette.

*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, night clubs, 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.

*Collocation.* The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

*Commercial vehicle.* Any vehicle designed and used for transportation of people, goods, or things, other than private passenger vehicles and trailers for private non-profit transport of goods and boats.

*Commission.* The Bay Minette Planning Commission.

*Comprehensive plan.* The community development plan including land use, housing, public facilities, and other planning elements currently in use by the City of Bay Minette.

*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.

*Convenience Store.* Any retail store of the 7-11, Circle K or Jr. Food Store variety providing self-service food, drink, tobacco, automobile fuel and other products for carry-out consumption, but not including bays, other than drive-through car washes, for automobile service or repair.

*Curb and curb line.* The inside vertical face of a masonry curb, the center line of a valley gutter, or the edge of the pavement where no curb or gutters exist.

*Day.* As used herein, the term day shall mean calendar days.

*Daycare 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.

*Dedication.* The deliberate assignation of land by its owner(s) for any general or public use(s), reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

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

- a. *Gross density:* The number of dwelling units per acre of the total land to be developed.
- b. *Maximum density:* The density allowable in a given zoning district not otherwise limited by other applicable requirements of this Ordinance.
- c. *Net density:* The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

*Development.* The division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance; and any use or extension of use of land.

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

*Double frontage or through lot.* A lot or plot, but not a corner lot, that abuts upon two (2) streets, the two (2) frontages being noncontiguous.

*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 or dwelling unit.* Any building, portion thereof, or other enclosed space or area used as or intended for use as the home of one (1) family, with separate cooking and housekeeping facilities, either permanently or temporarily.

- a. *Single family:* A detached building designed for and occupied by one (1) family as a home, with cooking and housekeeping facilities.
- b. *Two family:* A single building occupied by or designed for occupancy by two (2) families only, with separate cooking and housekeeping facilities for each, separated by a common wall and sharing a common roof and foundation.



- c. *Multiple family:* A building designed for or occupied by three (3) or more families, with separate cooking and housekeeping facilities for each.

*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.

*Engineer.* A professional engineer licensed and registered in the State of Alabama.

*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, storm water 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 commercial, industrial, institutional, educational, office, business, or financial entity.

*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.

*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.)

*Final plat.* The completed PUD or subdivision plat with appropriate official signatures in form for approval and recording.

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

*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.

*Flood prone area.* Any area subject to inundation by the regulatory flood.

*Floodway.* That portion of the flood plain, including the channel, which is reasonably required to discharge the bulk of the regional flood waters. 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 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.

- a. *Lot line-* The lot line which abuts a street or separates the lot from a street.
- b. *Street line-* All the property on the side of a street between two (2) intersecting streets (crossing or terminating), or if the street is dead ended, then all the property abutting on one (1) 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.

*Group development.* A development comprising two (2) or more structures built on a single lot, tract or parcel of land and designed for occupancy by separate families, firms, businesses, or other enterprises.

*Habitable rooms.* All living spaces within a dwelling unit (house, apartment, townhouse, condominium, mobile home) arranged in such a fashion as to be commonly described as kitchen, dining room, 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, in the opinion of the governing body, as a room for the carrying on of general family activities.

*Height of building.* (See Building height.)

*Home association.* An 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 residential dwelling unit 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 residential character thereof.

*Homeowner's association.* A group of homeowners in a geographical area banded together for a specific purpose.

*Hotel.* A transient commercial lodging establishment consisting of one (1) 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, non-substantial.* Any improvement which is not a substantial improvement.

*Improvement, substantial.* Any addition to any structure; any extension, enlargement or expansion of any structure; or any repair, reconstruction or improvement; the cost of which equals or exceeds 50 percent of the fair market value of the existing 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.

*Inoperative vehicles.* Any vehicle that does not have a current license tag or 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 stored in a garage, barn or other enclosed area and screened from view.

*Institution or institutional.* A nonprofit organization building, or 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.).

*Junk vehicle.* Inoperative vehicles.

*Junk yard.* 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 auto wrecking yards, used lumber yards, house-wrecking yards, and yards or places for storage or handling of salvaged house wrecking and structural steel materials. This definition shall not include pawn shops and establishments for the sale, purchase, or storage of usable secondhand cars, salvaged machinery, used furniture, radios, stoves, refrigerators or similar household goods and appliances. Nor shall it apply to the processing of used, discarded, or salvaged materials as part of manufacturing operations.

*Kennel.* Any place or premises where four (4) or more dogs over four (4) months of age are kept for breeding and/or boarding for profit.

*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.

*Lattice tower.* A support structure constructed of vertical metal struts and cross braces forming a triangular structure which often tapers from the foundation to the top.

*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 (1) 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 and having its principal frontage upon an existing or proposed right-of-way conforming to the requirements of this Ordinance.

*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, flag.* A an irregularly shaped parcel with a limited amount of street or road frontage, that has access to a public or private street by a narrow strip of land, the "flagpole," with the bulk of the property containing no frontage and situated behind adjoining lots which front on a public or private street.

*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 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 line, front.* The lot line contiguous to the street right-of-way line of the principal street on which the lot abuts.

*Lot line, rear.* The lot line opposite to 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 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.

*Maintenance and storage facilities.* Land, buildings, and structures devoted primarily to the maintenance and storage of construction equipment and material.

*Mall.* Any concentration of two (2) or more retail stores and/or service establishments which share customer parking areas and is located within an enclosure having public walkways whereby a customer in one (1) store or establishment may walk to another store or establishment without leaving the enclosure.

*Maneuvering space.* 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, U.S.C. 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.

*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.

*Marina.* A harbor or boat basin providing moorage, docking facilities, supplies and minor services for pleasure boats.

*Marina, full service.* A place for docking pleasure boats or providing services to pleasure boats and the occupants thereof, including minor servicing and minor repair to boats while in the water, sale of fuel and supplies, water, electricity and sewer services, and the provision of lodging, food, beverages, and entertainment as accessory uses. Dry boat storage may also be provided, but not major boat repair. A yacht club shall be considered as a marina, but a hotel, or similar use, where docking of boats and provision of services thereto is incidental to other activities, shall not be considered a marina, nor shall boat docks accessory to a multi-family structure where no boat related services are rendered.

*Marquee.* Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, designed and constructed to provide protection from the weather.

*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.

*Manufactured/Mobile home park.* A residential development on a parcel of land in one (1) ownership providing rental spaces for two (2) or more mobile homes on a long-term basis, with recreation and service facilities for the tenants, whether or not a charge is made for such accommodation.

*Manufactured/Mobile home space.* A plot of ground within a mobile home park designed for the accommodation of one (1) mobile home or travel trailer.

*Manufactured/Mobile home subdivision.* A residential development designed for the accommodation of mobile homes on individually owned lots or in condominium or cooperative ownership, including recreation and open space areas held in common ownership, but not including developments serving tourist or vacation-oriented travel, motor homes, campers, etc.

*Mobile Food Vending Vehicle* – A mobile food vendor business that is motorized or non-motorized, designed and equipped to serve food for individual consumption at the point of sale, and is removed each day from the location where the food is sold. This includes a truck, cart, wagon and the like.

*Mobile Merchandise Vending Unit* - A mobile vendor business that is motorized or non-motorized, designed and equipped to sell non-consumable merchandise not intended for individual consumption at the point of sale, and is removed each day from the location where the merchandise is sold. This includes a truck, cart, wagon and the like.

*Mobile Vendor* – The owner or operator of a Mobile Vending Vehicle or Unit.

*Mobile Vending Unit* –Refers to both Mobile Food Vending Vehicles and Mobile Merchandise Vending Units.

*Modular structure.* Any pre-built structure delivered as a single module or as a series of modules for connection and placement on a building site or lot approved for the intended use; provided that such structure meets State specifications for modular structures. Modular structures are not considered manufactured or mobile homes.

*Monopole:* A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

*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.* A bar or other similar establishment providing food or refreshments wherein floor shows or other forms of entertainment by persons are provided for guests.

*Nonconforming use.* A use of land 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 aged, chronically ill, or incurable persons in which three (3) 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.

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

*Open space, general.* 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, in planned unit development:*

- a. privately-owned and occupied area of a separate lot, outside of any buildings on the lot;
- b. privately occupied open space assigned to an individual dwelling unit in a project and not occupied by the dwelling;
- c. public open space. 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 space, 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 of Bay Minette representative for an individual, firm, trust, partnership, association or corporation to undertake activities related to subdivisions, zoning, PUD's, land use, building or other actions permitted in this Ordinance or by other City of Bay Minette authorization.

*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.

*Planned unit development.* A planned unit development is as follows:

- a. is land under single ownership or unified control, planned and developed as a whole in a single development operation or approved programmed series of development operations, and which generally includes clustered building, common open spaces, and a mix of building types and land uses;
- b. includes principal and accessory uses and structures substantially related to the character of the development itself and the surrounding area of which it is a part;

- c. 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 City of Bay Minette Planning Commission.

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

*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.

*Preliminary plat.* The plat of a proposed subdivision for presentation to the Planning Commission for its consideration and public hearing.

*Primary Entrance.* The place of ingress and egress used most frequently by the public.

*Principal use or building.* A use or 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, in this Ordinance is assumed to include also campers, camping trailers, motor homes and small mobile homes (up to a length of twenty-eight (28) feet exclusive of hitch) capable of being towed by a passenger motor car.

*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 one hundred (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 of the regulatory flood plus one (1) foot of freeboard to provide a safety factor.

*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.

*Revetment.* A facing of stone, concrete, etc., built to protect a scrap, 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 agricultural and related products.

*Roadway.* That portion of a street between the regularly established curb lines or that part of a street devoted to vehicular traffic.

*Rooming house.* Any building or portion thereof, other than a hotel or motel, which contains not less than three (3) or more than nine (9) guest 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 dishes.* 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.

*Secondary Entrance.* A place of ingress and egress other than the primary entrance.

*Semi-public land uses.* Philanthropic and charitable land uses including: Y.M.C.A.'s, Y.W.C.A.'s, 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 an aerobic

bacteriological process 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.

*Sexually oriented business.* Any adult arcade, adult bookstore, adult motion picture theater, adult motion picture rental, adult mini-motion picture theater, adult steam room/bathhouse/sauna facility, adult companionship establishment, adult rap/conversation parlor, adult massage parlors, adult health/sport club, adult cabaret, adult novelty store, adult motion picture arcade, adult modeling studio, adult hotel/motel, adult body painting studio, escort, escort agency, sexual encounter establishment, nude studio, or any other commercial or business enterprise which has as a primary focus of its business the offering for sale, rent, or exhibit, or the exhibit of, items or services intended to provide sexual stimulation or sexual gratification to the customer, or which places an emphasis on the presentation, display, depiction or description of sexual activities or of nude persons. The term "sexually oriented business," however, shall not be construed to include:

- a. Professional offices or schools of licensed physicians, chiropractors, psychologists, physical therapists, teachers or similar licensed professionals performing functions authorized under the license(s) held; or
- b. Establishments or businesses operated by or employing licensed cosmetologists or barbers, performing functions authorized under licenses held.

All applicable definitions and provisions pertaining to sexually oriented businesses are contained in *Article 17*.

*Shelter, fall-out.* 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.

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

*Sidewalk area.* That portion of a street not included in the roadway and devoted in whole or in part to pedestrian traffic.

*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. All applicable sign definitions and provisions are contained in *Article 16*.

*Special exception.* A land use which may be permitted, that is not similar in nature to the uses permitted in a district but that is desired in the community and for which a suitable district is not available. Such use may be permitted in the most nearly appropriate district where a location is available, upon appeal to and approval by the Board of Adjustment, which may set forth special conditions under which the use may be allowed.

*Spot zoning.* The zoning of a "spot" or small area (individual lot or several contiguous lots) within the limits of an existing zoning district, and in which are permitted uses other than those permitted in the larger existing zoning district surrounding the "spot". "Spot zoning" is not authorized by law.

*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 of Bay Minette, 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 if such existed at the time of enactment of this Ordinance, or such right-of-way fifty (50) feet or more in width if established thereafter.

- a. *Collector street.* A street used to carry traffic from minor streets to the system of major streets.
- b. *Cul-de-sac or dead-end street.* A street having one end open to traffic and one terminating in a vehicular turnaround.
- c. *Major street, arterial street or highway.* A street or highway or exceptional continuity designed to carry high volume traffic considerable distances.
- d. *Minor street or local street.* A street used primarily for access to abutting properties.

*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 which complies with applicable building codes.

*Structure.* Anything constructed or erected, the use of which requires a location on the ground or attached to something having a location on the ground.

*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 re-division of a parcel of land into two or more parcels as provided for in the Subdivision Regulations of the City of Bay Minette. This includes the division of a lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other division of land for the purpose, whether immediate or future, of sales or of building development.

*Telecommunication.* The technology which enables information to be exchanged through the transmission of voice, video or data signals by means of electrical or electromagnetic systems.

*Temporary use.* Any use not longer than three (3) calendar months within any given calendar year.

*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.

*Townhouse.* An individually owned single family 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, and not exceeding two and one-half (2 ½) stories or thirty-five (35) feet in height.

*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, whether publicly or privately owned and whether operated for or without compensation.

*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.

- a. Principal Use. The primary or predominate use of any building, lot or parcel.
- b. Secondary Use. A use of land or a building or portion thereof incidental and subordinate to the principal use of the land or building and located in the same building or on the same lot with the principal use.

*Variance.* A modification of the strict terms of the relevant regulations in a district with regard to placement of structures, development criteria or provision of facilities. Available only on appeal to the Board of Adjustment.

*Waterway.* Any body of water, including any creek, canal, river, lagoon, lake, bay or gulf, natural or artificial except a swimming pool or ornamental pool located on a single lot.

*Well, Irrigation.* A well installed and utilized solely for providing water to irrigate landscaping or agricultural crops.

*Well, Private.* A well that are being used to produce water for human consumption and other domestic purposes.

*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.

*Wireless telecommunications antenna.* The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

*Wireless telecommunications equipment shelter.* The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

*Wireless telecommunications facility.* A facility consisting of the equipment and structures involved in receiving telecommunications and/or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

*Wireless telecommunications tower.* A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.

*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.

- a. *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.
- b. *Yard, rear.* An open space on the same lot with the main building, such space being unoccupied except possibly by an accessory building and extending the full width of the lot and the rear line of the main building projected to the side lines of the lot. On all corner lots the rear yard shall be at the opposite end of the lot from the front yard.
- c. *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.
- d. *Yard, minimum.* That yard space remaining if the property is developed to the fullest extent allowable under applicable ordinances.

*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 and enforce the provisions of the Zoning Ordinance and issue Land Use Certificates.

*Zoning districts.* A section of the City of Bay Minette designated in this Ordinance text and delineated on the zoning map where in all requirements for use of land and building and development standards must be uniform.

*Zoning map.* The map or maps, which are a part of this Zoning Ordinance, and which delineate the boundaries of zoning districts.

## ARTICLE 6. ESTABLISHMENT OF DISTRICTS

### 6.1 Use Districts

The City of Bay Minette, Alabama, is hereby divided into zoning districts as listed and described below and as shown on the Official Zoning District Map 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 for the purpose of promoting compatible land uses and standards that support a safe and desirable community to live and work.

### 6.2 Residential Districts.

- 6.2.1 *R-A, Rural Residential and Agricultural District.* This district provides for large, open, un-subdivided land of three (3) acres or more that is vacant or is being used primarily for agricultural, forest, or other rural purposes. This zoning district is designed to protect the essentially open character of the district until it is timely to reclassify the land to appropriate residential, commercial or industrial categories.
- 6.2.2 *R-1, Low Density Single Family Residential District.* This district is provided to afford opportunity for choice of low density suburban residential environment consisting of single-family homes on large parcels of land.
- 6.2.3 *R-2, Medium Density Single Family Residential District.* This district is intended as a medium density single family urban residential district, with lots of moderate size.
- 6.2.4 *R-3, Higher Density Single Family Residential District.* This district is intended to provide for a higher density of single-family structures on smaller lots than those allowed in the R-1 and R-2 districts. Duplexes will be allowed as a special exception.
- 6.2.5 *R-4, High Density Multi-Family Residential District.* The intent of this district is to provide opportunity for high density single-family, duplex, and multi-family residential development in specified areas. Within this district it is also considered suitable to include other uses of a type deemed to be compatible with a good high-density living environment by providing for needed community services. Public or community water and sewer facilities are required.
- 6.2.6 *R-5, Manufactured/ Mobile Home Residential District.* The intent of this district is to provide space at appropriate locations consistent with community objectives for the establishment of permanent manufactured/mobile homes and for the amenities conducive to an adequate living environment. Public or private community water and sewer facilities are required except where lots are equal to Health Department requirements for private wells and septic systems.
- 6.2.7 *PUD Planned Unit Development.* This zoning district is to provide an opportunity for the best

use of land, protection of valuable natural features in the community, provide for, larger areas of recreational open space, more economical public services and opportunity for mixed use. The purpose of this provision is to encourage the unified development of tracts of land, much more creative and flexible concepts in site planning. The criteria for this zoning district can be found in *Article 11* of this ordinance.

### 6.3 Business Districts.

- 6.3.1 *B-1, Local Business District.* This district is intended to provide for limited retail convenience goods, personal service, and professional 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 through out a neighborhood.
- 6.3.2 *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.
- 6.3.3 *DHB Downtown Historic Business Overlay Zone.* This Overlay Zone is established to provide opportunity for business development in the central business district. This overlay zone is not intended to impact use restrictions that are imposed by the underlying zoning district, but rather imposed or relaxed certain requirements to encourage business development. The Downtown Historic Business District Overlay Zone is shown on the current Zoning Map. Residential uses are considered an allowable secondary use that is intended to promote mixed use. Where mixed uses are approved, residential uses must locate above or behind the commercial use.

### 6.4 Industrial Districts.

- 6.4.1 *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. Industrial parks should be encouraged. Locations should be in accordance with comprehensive plans.
- 6.4.2 *M-2 General Industrial District.* It is the intent of this district to provide opportunity for the location of industrial, manufacturing, processing, warehousing, or research and testing operations that, due to employment of heavy equipment or machinery or to the nature of the materials and processes employed, require special location and development safeguards to prevent pollution of the environment by noise, vibration, odors or other factors, and may also require extensive sites for storage and parking, may require extensive community facilities or generate heavy motor traffic. Access to major transportation facilities is usually needed. Locations should be in accordance with comprehensive plans and special review is required for some.

## 6.5 District Boundaries

The boundaries of the above districts are hereby established as shown on the Official Zoning District Map of the City of Bay Minette. 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:

- 6.5.1 Unless otherwise shown on said Zoning Map, the boundaries of districts are lot lines, the center lines of streets or alleys or such lines extended, railroad right-of-way lines, or the corporate limit lines as they existed at the time of enactment of this ordinance.
- 6.5.2 Where district boundaries are approximately parallel to the center lines 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.
- 6.5.3 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.
- 6.5.4 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.



## ARTICLE 7. GENERAL PROVISIONS

### 7.1 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. It shall be the responsibility of the owner/ developer to allow proof of compliance with the requirements of this Ordinance.

### 7.2 Lots

7.2.1 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.

7.2.2 All lots shall front on a public or private street and shall have a minimum frontage width as indicated in Section 8.12. On irregularly shaped lots, a minimum street frontage of 30 feet is required and residential lots shall not front on a collector street without Planning Commission approval. An "irregularly shaped lot" includes any lot located on a cul-de-sac or abutting a curved section of a roadway with a centerline radius of less than 200 feet.

7.2.3 Flag lots may be permitted in moderation to allow for the more efficient use of irregularly shaped parcels of land, sites with physical limitations or where the integrated nature of multiple buildings on a site dictates the need for such lots. Lots in the flag shape, but meeting the zoning district's minimum lot width requirement and street access requirements, are not considered flag lots.

- a. The minimum frontage at the right-of-way line and width for the "flagpole" portion of a flag lot is 30 feet. The length shall be a maximum of 300 feet and is subject to the requirements of the City of Bay Minette Fire Department. Owners/applicants may be required to install fire hydrants to meet fire code standards.
- b. The "flagpole" driveway cannot serve more than one lot or dwelling unit without Planning Commission approval.
- c. The "flagpole" portion of the lot shall not be considered in determining the minimum lot area, dimensions, density or building coverage
- d. No more than the number of flag lots shown in the table below may be authorized in a subdivision.

Size of Subdivision	Maximum Number or Percentage of Flag Lots
15 lots or less	1
16 – 25 lots	2
26 – 50 lots	10%
51 lots or more	20%

### 7.3 Building Heights

No building shall hereafter be erected, constructed, or altered so as to exceed the height requirement specified in the regulations for the zoning district in which the development is to occur, except as otherwise provided herein.

*7.3.1 Height Measurements.* Building height shall be measured from finished grade except where base flood elevations apply, in which case building height shall be measured from the minimum base flood elevation as established by Flood Insurance Rate Maps (FIRM).

*7.3.2 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.

### 7.4 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.

*7.4.1 Yard Requirements.* Yard requirements shall be modified subject to the following conditions:

*7.4.1.1* On double frontage lots, the required front yard shall be provided on each street.

*7.4.1.2* Whenever a rear property line of a lot abuts upon an alley, one-half (1/2) of the alley width shall be considered as a portion of the required rear yard.

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

7.4.1.4 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 Building Inspector in consideration of the lot size and the size of the proposed structure. In no case shall any structure be placed on or across an existing utility or drainage easement.

7.4.1.5 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.

## 7.5 One Principal Building on Lot

Every residential building, including hotels, motels, condominiums, single-family and multi-family 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:

7.5.1 In any district where multi-family 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 Flood Insurance Rate Maps (FIRM), 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.

## 7.6 Residential Uses in Business District

Residential uses established in any Business District must comply with the minimum requirements set forth in *Article 8*.

## 7.7 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:

7.7.1 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 and Industrial Districts, such lot may be used for any use permitted in the district in which it is located.

7.7.2 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.

7.7.3 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 non-conformance, or is required by other laws or Ordinances of the City of Bay Minette.

## 7.8 Corner Visibility

In any district requiring a front yard setback, no fence, wall, shrubbery, sign, marquee or other obstruction to vision between the heights of three and one-half (3-1/2) feet and fifteen (15) feet above street level shall be permitted within twenty (20) feet of the intersection of the right-of-way lines of two streets or railroads or of right-of-way lines of a street and a railroad. Accessory structures within twenty-five (25) feet of the rear lot line of a corner lot shall be set back the minimum front yard depth required on the side street.

## 7.9 Access to Public Streets

Access to public streets shall be maintained in accordance with the following requirements:

7.9.1 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 sixty (60) feet, except where existing public rights-of-way are less than 60 feet.

7.9.2 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.

## 7.10 Future Street

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

### 7.11 Off-Street Parking

In each district, each structure hereafter erected or altered shall be provided with off-street parking spaces as specified in the district schedule, *Article 9*. No off-street parking space required for a building or structure shall, during its life, be occupied by or counted as off-street parking space for another building or structure, but may be included in the required yard space.

### 7.12 Utilities

*7.12.1 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 Baldwin County Health Department.

*7.12.2 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.

*7.12.2.1* 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.

### 7.13 Surface Drainage

Owners, particularly developers of 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 Official shall, in consultation with a certified Engineer, determine that reasonable provisions for properly handling surface drainage 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 reasonable 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.

### 7.14 Erosion and Sediment Control

Erosion and sediment control shall be in accordance with *Article 12*.

## 7.15 Abatement of Noise, Smoke, Gas Vibration, Fumes, Dust, Fire, and Explosion Hazard or Nuisance

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

## 7.16 Fencing, Screening, Lighting, and Space

7.16.1 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.

7.16.2 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.

7.16.3 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.

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

7.16.5 *Fencing and screening in residential districts.*

7.16.5.1 Maximum height in a front yard is four (4) feet.

7.16.5.2 Maximum height in a rear or side yard is seven (7) feet.

7.16.5.3 Fencing and screening on corner lots must meet *Section 7.8 Corner Visibility*.

7.16.5.4 Fences, walls and screening shall be located within the property lines, unless express written permission is provided by adjacent property owners. Determining the location of lot lines is the responsibility of the property owner. The City will not mediate property line disputes.

7.16.5.5 Fences may not be located within five (5) feet of the right-of-way or public sidewalk.

7.16.5.6 Fences may not be bermed for the purpose of increasing allowable height.

7.16.5.7 The following materials are prohibited for use in wall or fence installations:

- a. Corrugated or sheet metal
- b. Cloth, tarps, canvas or similar material
- c. Corrugated or plastic sheeting
- d. Plywood or similar material
- e. Barbed wire, single-strand wire, wire mesh/grid or chicken wire along the perimeter or boundary of a property (except for agricultural uses)
- f. Fencing charged with or designed to be charged with electrical current
- g. Other materials not manufactured for or typically used for fences, walls or screening

## 7.17 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. It is the responsibility of the property owner and/or authorized agent to ensure compliance with any and all applicable deed restrictions or restrictive covenants prior to submitting an application to the Planning & Community Development Department.

## 7.18 Nonconformance

It is the intent of this Ordinance to recognize that the elimination of existing buildings and structures or uses that are not in conformance with the provisions of this Ordinance is as much a subject of health, safety and general welfare as is the prevention of the establishment of new uses that would violate the provisions of this Ordinance. 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:

*7.18.1 Unsafe Structures.* Any structure or portion thereof declared unsafe by any authority shall be restored to a safe condition subject to the provisions of this Ordinance.

- 7.18.2 *Alterations.* Any change in a non-conforming building site or yard area is subject to the following:
- 7.18.2.1 Any improvements, alterations, repairs or installation of new fixtures or equipment for an existing non-conforming structure may be accomplished by the owner of the structure upon obtaining the proper permits or applications from the City Planner and 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.
  - 7.18.2.2 Should a non-conforming building be moved; all non-conforming yard areas shall be eliminated.
  - 7.18.2.3 A non-conforming use of land shall be restricted to the lot occupied by such use as of the effective date of this Ordinance. A non-conforming use of a building or buildings shall not be extended to include either additional buildings or land after the effective date of this Ordinance.
  - 7.18.2.4 If a non-conforming structure is hereafter destroyed or damaged by any cause, and the cost of reconstruction or repair of the structure does not exceed fifty percent (50%) of the fair market value of the structure prior to sustaining damage, the structure may be repaired and restored to a condition comparable to its nonconforming condition prior to sustaining damage; provided that such repairing, rebuilding or replacement will bring it into conformity, if possible, or that it will at least not increase, unnecessarily, the non-conformity, and will, in all other respects, meet the requirements of the district in which it is located.
- 7.18.3 *Change in Use.* A non-conforming use which is changed to a conforming use shall not be permitted to revert to the original or a less restrictive use.
- 7.18.4 *Discontinuance.* A non-conforming use which became such upon the adoption of this Ordinance and which has been discontinued for a continuous period of nine months shall not be re-established and any future use shall be in conformity with the provisions of this Ordinance.
- 7.18.5 *Adjacent Land.* The presence of a non-conforming 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.
- 7.18.6 *Uses Under Special Exception Provisions Not Non-Conforming Uses.* Any use which is permitted as a special exception in a district under the terms of this Ordinance (other than a change through Board of Adjustment action from a non-conforming use to another use not generally permitted in the district), shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.



## 7.19 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 within the territorial and legal authority of this Ordinance, that are not located in a district designated for the intended use, may be permitted to continue provided that:

- 7.19.1 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.
- 7.19.2 The project complies in other aspects with the requirements of this Ordinance for districts in which similar uses are permitted.
- 7.19.3 Other conditions may be required by the City of Bay Minette due to the unique circumstances of the land.

## ARTICLE 8. DISTRICT REQUIREMENTS

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:

### 8.1 Residential District Requirements

- 8.1.1 A residential dwelling requires a building permit from the City of Bay Minette, Alabama, a permit for sewage hook-up or septic tank from the appropriate authorities and individual water meter for the residence.
- 8.1.2 All homes must conform to local City, County, and State regulations as they pertain to new home construction.
- 8.1.3 All requirements of these ordinances shall be completed in their entirety prior to the structure being occupied.

### 8.2 Multi-Family Dwelling Review Requirements

All multi-family dwellings intended for occupancy by three (3) or more families shall be submitted to the Planning Commission for site plan approval prior to issuance of the building permit. Site plans shall be submitted in accordance with Section 8.9.

### 8.3 Performance Standards for Non-Residential Districts.

In all non-residential districts where facilities are permitted, they shall comply with the following minimum standards:

- 8.3.1 Lots shall be of sufficient size to be used for the purpose intended, provide adequate parking and loading facilities in addition to space required for conduct of other operation of the business, and otherwise comply with the provisions of the Ordinance.
  - 8.3.1.1 The minimum lot size for marinas shall be one acre, all of which shall be above mean sea level.
- 8.3.2 Where a business district abuts any part of a residential district, a buffer zone ten (10) feet wide shall be required; where an industrial district abuts any part of a residential or business zone, a buffer zone of twenty (20) feet shall be required. Said buffer zone shall be part of the yard requirements and shall be fenced or screened subject to the following regulations:
  - 8.3.2.1 *Wall or Fence.* If a wall or fence is provided as a protection buffer, it shall be six (6) feet high and of a construction and a design approved by the Planning Commission. Said wall or fence shall be maintained in good repair by the owners of the property.
  - 8.3.2.2 *Screen Planting Strip.* If a screen planting strip is provided as a protection buffer, it

shall be at least then (10) feet in width, shall be planted with materials in sufficient density and of sufficient height (but in no case less than six (6) high at the time of planting) to afford protection to the residential or business district from the glare of lights, from blowing papers, dust and debris, from visual encroachment, and to effectively reduce the transmission of noise. Screen planting shall be maintained in a clean and neat condition and in such manner as to accomplish its purpose continually.

- 8.3.3 No primary entrances or exits shall direct traffic into adjacent residential districts. Adequate parking as required in *Article 9* shall be provided. Adequate space for service and supply vehicles to get in and out or turn around shall also be provided.
- 8.3.4 Noise, air pollutants including dust emissions, and surface runoff shall not exceed background levels by more than 10%.
- 8.3.5 Uses in all business districts must comply with all applicable health and safety standards, including sanitary facilities, paved and landscaped parking areas, and other requirements of this Ordinance and of State and Federal regulations.
- 8.3.6 Non-permanent structures such as trailers, sheds and other such buildings used for business purposes may be permitted in business districts on a temporary basis pending construction of a permanent building. Such structures may be permitted for six-month periods, renewable, upon written request from the business owner, up to a maximum of one (1) year.
- 8.3.6 All business structures shall be so designed as to present an aesthetically pleasing appearance, as determined by Planning Commission, that is generally compatible with existing buildings in the district, except those less desirable in appearance that have been grandfathered under *Article 7* of this Ordinance.
- 8.3.7 Non-permanent structures such as trailers and shipping containers used in conjunction with an existing non-residential use and used for storage of excess inventory, may be permitted by the City Planner provided the following requirements are met.
- 8.3.7.1 The structure is located at the rear of the primary building. The Planning Commission may, in its discretion, permit an alternate site location in the event special conditions and/or circumstances exist not resulting from the actions of the applicant.
- 8.3.7.2 The structure is not located within a required rear or side yard setbacks.
- 8.3.7.3 The structure shall not obstruct the use of any parking spaces or loading areas required by the primary use.
- 8.3.7.4 The structure shall not be visible from any public right of way, or from any residential district. Screening and/or fencing, as approved by the City Planner may be used to decrease the visibility.

8.3.7.5 Contents of the structure must be stored in accordance with applicable laws, rules and regulations. Under no circumstances shall such structures be used for the storage of hazardous or explosive materials. Any structure approved by the Bay Minette Fire Department must display the appropriate hazardous material plaques.

8.3.7.6 An application showing that these requirements are met shall be filed with the City Planner. This application shall include, at a minimum, the location of the containers, a list of the contents, and any applicable screening/fencing.

8.3.7.7 Any existing structures that were not approved by a building permit or through approval of a site plan by the Planning Commission or City Planner and placed on a site before the adoption of this ordinance, shall be brought into compliance within one year of the date of adoption of this ordinance.

#### 8.4 Requirements for Public and Semi-Public and Accessory Buildings

8.4.1 *Minimum Lot Area and Lot Width:* None specified only that the lot be large enough to provide the yards specified herein.

##### 8.4.2 *Yard Regulations*

- a. *Front Yard.* Each lot shall provide a front yard with a minimum depth of 40 feet.
- b. *Side Yards.* Each lot shall have a side yard of a minimum of 35 feet on each side.
- c. *Rear Yard.* Each lot shall have a rear yard with a minimum depth of 35 feet.

8.4.3 *Maximum Building Height:* No structure shall exceed a height of thirty-five (35) feet, except a church, hospital or jail may have a maximum height of one hundred (100) feet, provided that one-half (1/2) foot shall be added to all minimum yard requirements for each additional foot of height in excess of fifty (50) feet. (Does not apply to church sanctuary.)

8.4.4 *Maximum Building Coverage:* The maximum land covered by a building shall be fifty percent (50%) of the total lot area. A minimum of fifteen percent (15%) of the total lot area shall be landscaped or maintained as open green space. The foregoing percentage shall include all landscape requirements for parking areas. Provided however, at least five percent (5%) of the total landscaped area or green space must be located in the front yard and side yards of the lot in areas other than parking areas.

#### 8.5 Maximum Building Height

Except as provided for elsewhere in this ordinance, no structure shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in any R-1, R-2 or R-3 residential district or more than four (4) stories or fifty (50) feet in any R-4, business or industrial district.

## 8.6 Metal Buildings

- 8.6.1 On properties sited closer than 200 feet from the right-of-way, or properties visible from Alabama Highway 59, Highway 31 or Hand Avenue north of Highway 31 to McMeans Avenue, Highway 138, State Highway 287 and D'Olive Street, the exterior metal walls of the front and any sides of a building facing said public street, that will be constructed with metal cladding as the primary siding material, shall not be constructed to expose more than 50% percent of bare metal siding façade facing said right-of-way or roadway. All metal buildings shall have at least two exterior architectural features for articulation, such as front porches, gables, awnings, or other exterior siding materials, on the front elevation and any other elevation that is adjacent to or visible from a public street or right-of-way. Landscaping shrubs and/or trees shall be planted and maintained in front of bare metal siding portions of the building, facing the roadway or right-of-way, to improve the aesthetics of the building and lot.
- 8.6.2 Acceptable materials for the external facade of metal buildings include stucco, brick, scored and split face block and wood. It is recommended that large walls be broken up through the use of architectural features or embellishments such as color bands, wainscot, protrusions, recessed windows or entries. Alternative materials must be approved through the site plan approval process.

## 8.7 Accessory Uses, Structures, Carports and Home Occupations

- 8.7.1 *Accessory Uses.* Any use may be established as an accessory use to any permitted principal use in any district provided that such accessory use:
- 8.7.1.1 Is customarily incidental to and is maintained and operated as a part of the principal use;
  - 8.7.1.2 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;
  - 8.7.1.3 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; and,
  - 8.7.1.4 In residential districts an accessory use will conform to the following requirements:
    - a. Where an accessory structure is attached to the residential building, a substantial part of one wall of the accessory structure shall be an integral part of the residential building or such accessory structure shall be attached to the residential building in a substantial manner by a roof and, therefore, such requirements applicable to the residential building shall apply. A detached carport constructed on-site shall be subject to applicable building codes.

- b. Where a carport is attached to the residential building, it shall be attached to the residential building in a substantial manner by a roof and, therefore, such requirements applicable to the residential building shall apply.
- c. A detached accessory structure shall not be closer than twenty (20) feet to the residential building, nor closer than five (5) feet to any lot line or encroach into any existing drainage or utility easements. Swimming pools shall not be closer than 5 feet from the dwelling.
- d. A detached carport may be located adjacent to a residential building, but shall not be closer than five (5) feet to any lot line nor encroach into any existing drainage or utility easement.
- e. 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.
- f. No detached accessory structure or detached carport may: (1) be located forward of the building frontage of the residential building; or (2) be closer than twenty (20) feet to any right-of-way.
- g. Attached or detached accessory structures less than one-third the area of the principal residence may be used for living quarters provided such structures do not contain kitchen facilities. Such accessory residences may also be constructed above a garage or other storage building provided they do not exceed the height limitation for the zoning district in which they are located. Notwithstanding any other provision contained herein to the contrary, all structures intended for use or used as living quarters are subject to and shall follow all applicable building codes and ordinances.

*8.7.1.5 Minimum Lot Area and Lot Width:* None specified only that the lot be large enough to accommodate principal building plus the accessory building and/or buildings and meet the yard and other requirements specified in this Ordinance.

*8.7.1.6 Maximum Building Height:* Detached accessory buildings shall not exceed one (1) story or fifteen (15) feet in height.

*8.7.1.7 Maximum Building Coverage:* None specified, only that the principal building together with accessory buildings must comply with the requirements applicable to maximum building coverage specified in this Ordinance.

*8.7.1.8 Permitting Requirement:* For any detached carport that is manufactured or constructed off-site and delivered to the residence for assembly and/or installation, the property owner shall obtain a Land Use Application and Building permit from the Planning and Development Services Department in accordance with the following requirements:

- a. The property owner shall submit a Land Use Certificate application accompanied by a \$75.00 fee and all documentation required by the City Planner and Building Official, which shall include, without limitation, Building Permit application, plot plan with proposed setbacks, engineered drawings and the manufacturer's installation requirements.
- b. Upon review and approval of the application by the City Planner and Building Official, the property owner shall request and schedule a site inspection by the Building Official or his or her designee, to confirm that the proposed location for the accessory structure is in accordance with the requirements contained herein. The property owner shall not deviate from the approved location without approval of the City Planner or Building Official.
- c. Upon completion of assembly and/or installation of the accessory structure, the property owner or his/her contractor shall submit a certification, in form as provided by the Building Official, that the accessory structure was installed in accordance with the approved manufacturer's installation requirements.

#### *8.7.2 Home Occupations*

Home occupations are permitted in all districts where residences are permitted, if licensed by the City and conforming to the conditions of this section and any applicable laws or ordinances. Home Occupations are subject to administrative review and require an approved Land Use Certificate. 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.

##### *8.7.2.1 Limitations on Type of Home Occupation are as follows:*

- a. Area used for a home occupation shall not exceed twenty percent (20%) of the gross floor area in the principal building.
- b. The home occupation shall be confined entirely to the principal building.
- 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 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. Patrons to the business shall be limited to one (1) client at a time.
- f. Instruction in music, dancing, and similar subjects shall be limited to two (2) students at a time.
- g. The activity carried on as a home occupation shall be limited to the hours between 7:00 a.m. and 8:00 p.m.
- 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.
  - 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.
  - 6. No outdoor or indoor window signs of any kind are permitted for a home occupation

**8.7.2.2** Any home occupation not conforming with *Section 8.7.2.1* may be subject to Planning Commission approval and Site Plan Review.

## 8.8 Permitted Uses and Conditions

**8.8.1** *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.

**8.8.2** *Uses Requiring Planning Approval.* Uses in the Tables identified by "P" are permitted upon approval by the Planning Commission of the location and the site plan as being appropriate with regard to transportation, access, water supply, waste disposal, fire and police protection and other public facilities; as not causing undue traffic congestion or creating a traffic hazard; and as being in harmony with the orderly and appropriate development of the district in which the use is located. Each application to the Planning Commission for approval must be accompanied by a site plan prepared by the applicant or his agent.



- 8.8.3 *Special Exceptions.* Uses in the Tables identified by "S" are subject to the same approval of location and site plan as uses requiring Planning Approval; in addition, these uses are subject to approval of the Board of Adjustment. Each application to the Planning Commission and 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.
- 8.8.4 *Compliance with District Requirements.* Any use permitted in any district whether by Right, with Planning Approval, or as a Special Exception, must comply with the requirements of the district in which it is located, unless variance from such requirements is specifically requested and approved by the Board of Adjustment; or unless approved under the Planned Unit Development (PUD) provisions of the Subdivision Regulations.
- 8.8.4.1 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.
- 8.8.5 *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.
- 8.8.6 *Uses Not Specified.* In any case where a use is not specifically referred to by the Table or elsewhere in this Ordinance, its status shall be determined by the 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 City Planner, such determination shall thereafter have general application to all uses of the same type.
- 8.8.7 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 Non-Conformance section of this Ordinance.
- 8.8.8 Every use in any district shall be conducted entirely within a completely enclosed structure unless expressly exempted from enclosure requirements in this Ordinance.
- 8.8.9 It shall be the responsibility of the owner/developer to show (prove) compliance with the requirements of this Ordinance.

## 8.9 Site Plan

A site plan shall be required for all residential multi-family projects involving the construction of three (3) or more dwelling units; all commercial structures, all industrial structures, and other uses as required by the Planning Commission prior to a building permit being issued. Site plan reviews shall be accomplished by the Planning Commission to assure compliance with the provisions of this Zoning Ordinance to ensure conformity with its purpose as stated in *Article 1*. Eleven (11) sets of site plans

shall be submitted no less than ten (10) days prior to the Planning Commission meeting at which they are to be reviewed. The City Planner shall have the discretion to accept electronic submittals in satisfaction of some or all of the submittal requirements.

- 8.9.1 Upon approval of the site plan, either as submitted or with changes and/or special conditions required by the Planning Commission, the Building Official 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.
- 8.9.2 The Planning Commission may waive certain requirements contained in Section 8.9.3 of this Ordinance if it is determined that the requirements are not essential to a proper decision on the project; or, it may supplement the list with other requirements deemed necessary to clarify the nature of the proposed development.
- 8.9.3 Site plans 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 or 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 this section.
  - 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. Where required by the Alabama Department of Transportation ("ALDOT"), City Planner shall be provided proof that the applicant has submitted a driveway permit application to ALDOT. In the event that any type of traffic study is required by the ALDOT, copies thereof shall be provided to the City Planner.
- l. Front and side architectural elevations.
- m. The location and size of all signs to be located on the site. In the event that a sign is pre-existing 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.
- n. Landscape plans.
- o. 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, and signs.

#### **8.10 Table of Permitted Uses**

The following Table contains a list of land uses permitted in each district. Opposite each land use, in the appropriate district column or columns, the letter "R" identifies those districts in which a particular land use is permitted by right and the letters "S" identifies those districts in which a particular land use is permitted only by special exception. The letter "P", identifies those uses that must be reviewed and approved by the Planning Commission.

	R-A	R-1	R-2	R-3	R-4	R-5	B-1	B-2	M-1	M-2
Accessory buildings and uses, home swimming pools, when located on the same lot or parcel as the principal structure or use and customarily incidental thereto, provided the requirements in all pertinent sections of this ordinance are met.	R	R	R	R	R	R	P	P	P	P
Agriculture and related farming operations, including horticulture, market gardening for off premise sale, field crops, orchards and home gardens.	R	R	R	R	R	R	P	P	P	P
Air conditioning sales and service.							R	R	P	P
Ambulance/EMS service.							R	R		
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							S	S	S	S
Amusement arcade, kiddieland							S	S		
Archery range							S	S		
Baseball batting range							S	S		
Billiard or pool hall							S	R		
Bowling alley							S	R		
Fairground, circus or carnival							S	S		
Golf course		S	S	S	S	S	S	S		
Golf course, miniature							S	R		
Golf driving range							S	S		
Racquet ball or tennis courts, indoor							P	P		
Indoor skating rink							S	R		
Tennis courts, outdoor: need not be enclosed within a structure		S	S	S	S	S	P	P		
Theater, indoor							S	R		
Theater, outdoor/drive-in: need not be enclosed within a structure								P		
Animal clinic/kennels for small animals: need not be enclosed within a structure	S						S	S	S	S
Antique store, not including repairing and refinishing.							R	R		
Antique store, including repairing, restoration and refinishing.							R	R		
Apparel and accessory store.							R	R		

	R-A	R-1	R-2	R-3	R-4	R-5	B-1	B-2	M-1	M-2
Appliance store							R	R		
Armory							R	R		
Art gallery or museum.							R	R		
Art supplies.							R	R		
Auditoriums (large), stadiums, coliseums, dance halls and other such places of public assembly.							R	R		
Auditoriums (small) for public assembly. Typically reuse of historic home for weddings.				S	R		R	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		
Automobile parts sales, except used parts.								R		
Automobile wrecking and salvage: need not be enclosed within a structure but must be enclosed within a solid fence sufficiently high to obstruct noise and view; chain link or similar open fence may be permitted if a screen planting adequate to obstruct view is provided.								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, other than a stationary window, within 100 feet of a residential district.								R	S	S
Automobile and truck laundry, including steam cleaning								P	R	R
Automobile and truck repair garage, mechanical and body: must be conducted in a structure which shall not have any opening, other than a stationary window, within 100 feet of a residential district and which shall not store or otherwise maintain any parts or waste materials outside such structures.								P	S	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	S	S

	R-A	R-1	R-2	R-3	R-4	R-5	B-1	B-2	M-1	M-2
Automobile and truck service station including minor repair, subject to the requirements listed under Special Provisions, where the primary functions 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.							P	P		
Bakery, retail							R	R		
Bakery, wholesale								R	P	P
Bank, including drive-in bank							R	R		
Barber shop or beauty parlor							R	R		
Barber and beauty supplies and equipment sales								R		
Bicycle, lawnmower sales, service and repair							S	R		
Blueprinting and photostating shop							R	R		
Boat construction, storage, service and repair, wet and dry, major: need not be enclosed within a structure.								P	P	P
Boat docking only of pleasure boats as an accessory use to a permitted principal use; maximum of three (3) slips per unit. Boat service is prohibited.	P	P	P			P	R	R		
Boat dry storage: pleasure boats having lengths not greater than 31 feet.								P	P	P
Boat sales, accessories and service.								R		
Boat storage, service and repair, minor: a marina for docking pleasure boats and providing services thereto and the occupants thereof, including minor servicing and minor repair to boats while in the water, sale of fuel and supplies, and provision of lodging, food, beverages, and entertainment as accessory uses. May include dry storage in an enclosed structure.								P	P	P
Bookstore.							R	R		
Bottling works.								S	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	P	

	R-A	R-1	R-2	R-3	R-4	R-5	B-1	B-2	M-1	M-2
Bus and railroad terminal facilities, passenger.								R	P	P
Business machines sales and service.							R	R		
Business school or college, private.							P	P		
Butane or other liquefied petroleum gas products storage and sales: need not be enclosed within a structure.								S	S	S
Cabinet or carpenter shop.							S	S	R	R
Cafes, grills, lunch counter and restaurant, but not including nightclub, bar tavern, and drive-in restaurant.							R	R		
Camera and photographic supply store.							R	R		
Candy, nut and confectionary store.							R	R		
Canvas products manufacture.								S	R	R
Carting, express, crating, hauling, storage.								S	R	R
Catering shop or service.							R	R		
Cemetery, subject to requirements of the Special Provisions.	S	S	S	S	S	S	S	S		
Churches and related accessory buildings.				S	S	S	R	R		
City hall, police station, fire station, courthouse, federal office building and similar public building.	R	R	R	R	R	R	R	R		
Clay and clay products manufacture: need not be enclosed within a structure.								S	R	R
Clinic, dental, medical or psychiatric for humans.							R	R		
Club or lodge, fraternal, civic, charitable or similar organization, public or private, but not including any such club, lodge or organization, the chief activity of which is a service or product customarily carried on as a business.							R	R		
Club, country 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	S	S	P	P		
Cold storage plant.								S	R	R
College sorority or fraternity house							S	S		
Concrete and concrete products manufacture: need not be enclosed within a structure								S	R	R

	R-A	R-1	R-2	R-3	R-4	R-5	B-1	B-2	M-1	M-2
Contractor's storage and 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
Convenience store							R	R		
Correctional, detention or penal institution.								S	S	S
Dairy equipment sales.								P	R	R
Dairy products sales.							R	R		
Delicatessen.							R	R		
Department store.								R		
Drive-in restaurant.							P	R		
Drug store.							R	R		
Dry cleaning shop, including self-service.							R	R		
Dry goods or fabric store.							P	R		
Dwelling, one-family.	R	R	R	R	R	R	S	S	S	S
Dwelling, two-family.				S	R	R	P	P		
Dwelling, multi-family.					R	R	P	P		
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 screening in most districts.	P	P	P	P	P	P	P	P	P	P
Electric repair shop.							P	R		
Electric supply store.							P	R		
Elevator maintenance service.								P		
Employee credit union office.							R	R		
Exterminator service office.							P	R		
Farm and garden equipment and supply store.	P							R		
Farmers' markets.	P							P		
Fix-it shop, including small appliance repair.							R	R		
Fixture sales.							R	R		
Floor covering sales and service.							R	R		
Floral shop.							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-A	R-1	R-2	R-3	R-4	R-5	B-1	B-2	M-1	M-2
Food products processing plant.								S	R	R
Food products, wholesale storage and sales.								S		
Freight depot, railway or truck.								S	R	R
Fruit and produce, retail.							R	R		
Fruit store.							R	R		
Funeral home, mortuary or undertaking establishment.								R		
Furniture repair, including upholstering and refinishing.							P	R		
Gas regulator station.	P	P	P	P	P	P	P	P		
Gift shop.							R	R		
Grocery store, retail.							R	R		
Gymnasium, commercial.							P	R		
Hardware store, retail.							R	R		
Hardware store, wholesale, storage and sale.	P							R		
Hatchery, poultry or fish.								S		
Heating and plumbing equipment, supplies and service.								R		
Hobby shop and supply store.							R	R		
Home occupation.	R	R	R	R	R	R	R	R	R	R
Hospital, clinic, convalescent or nursing home, extended care facility or sanitarium for humans.					S		P	P		
Hotel or motel							P	P		
Ice cream parlor.							R	R		
Ice plant.								S	R	R
In-home Child or Day care Facility	P	P	P	P	P	P	P	P	P	P
Industrial park.								S	R	R
Interior decorating shop.							R	R		
Junk yard including storage, baling or sale of rags, paper, iron or junk: need not be enclosed within a structure but must be enclosed within a fence of sufficient height to obstruct view and noise; chain link or similar fence may be permitted if screen planting is provided.								S		
Kindergarten, playschool 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		P	P		
Laboratory, scientific.							S	S		
Laboratory, medical or dental.							P	R		

	R-A	R-1	R-2	R-3	R-4	R-5	B-1	B-2	M-1	M-2
Landscape garden sales: need not be enclosed within a structure.							S	S		
Laundry, self-service.					S	S	R	R		
Laundry and dry-cleaning pick-up station.							R	R		
Laundry and dry-cleaning plant.								S	P	
Laundry, linen supply or diaper service.							R	R		
Leather goods or luggage store.							R	R		
Liquor, wine and beer sales not to be consumed on premises and meeting local and state requirements.							P	P		
Loan office.							R	R		
Locksmith.							R	R		
Lodging, boarding or rooming houses.							S	S		
Lumber yard and building materials, need not be enclosed within a structure.								R	P	P
Machine shop.								S	P	R
Machinery, tools and construction equipment, sales, rental and service.								S		
Mail order house.							S	R		
Manufacturing, repair, assembly or processing establishments of a light industrial nature, including, but not limited to the following: Automobile, assembly. Clothing and garment manufacturing									R	R
Food products processing and packaging.									R	R
Glass products manufacturing.									R	R
Laboratories for testing materials, chemical analysis and photographic processing.									R	R
Metal products and manufacturing.									R	R
Millwork and similar wood products manufacturing.									R	R
Musical instruments and parts manufacturing.									R	R
Paper products manufacturing.									R	R
Plastics manufacturing.									R	R
Scientific, optical and electronic equipment assembly and manufacturing.									R	R
Shipbuilding and repair yard: need not be enclosed within a structure.										R
Souvenirs and novelties manufacturing.									R	R
Surgical and dental supplies manufacturing.									R	R

	R-A	R-1	R-2	R-3	R-4	R-5	B-1	B-2	M-1	M-2
Toys, sporting goods and athletic goods manufacturing. Marina, minor: see boat storage, service and repair, minor. Marina, major: see boat construction, storage, service and repair, wet and dry, major; may also include boat sales, accessories and service.								P	R R R	R R
Marine stores and supplies.								R		
Manufactured home.						R				
Manufactured home park.						R				
Manufactured home subdivision.						R				
Mobile Food Vending Vehicle							R	R	R	R
Mobile Merchandise Vending Vehicle							R	R	R	R
Modular structure.	P	P	P	P	P	P	P	P	P	P
Motorcycle sales, service and repair.								R		
Music store.							R	R		
Natural preservation areas including bird and wildlife sanctuaries, nature and hiking trails, outdoor camping sites and similar uses.	R	S	S	S	S	S				
Newsstand.							R	R		
Nightclub, bar, tavern and cocktail lounge when separate from restaurant.							S	S		
Office buildings, general.							R	R		
Office buildings, professional.							R	R		
Office equipment and supplies, retail.							P	R	R	
Oil and gas exploration and production activities.	S	S	S	S	S	S	S	S	S	S
Optician.							R	R		
Outdoor general advertising structure: need not be enclosed within a structure.							S	S		
Paint and wallpaper store.							R	R		
Painting and decorating contractor.								P		
Paper supplies, wholesale.								P	R	
Park or playground including recreation centers: need not be enclosed within a structure.	P	P	P	P	P	P	P	P		
Passenger depot, railway or bus.								S		
Pawn shop.							S	R		
Pet shop.							S	R		
Photographic studio and/or processing.							R	R		
Picture framing and/or mirror silvering.							R	R		

	R-A	R-1	R-2	R-3	R-4	R-5	B-1	B-2	M-1	M-2
Planned Unit Development, fixed dwelling.	P	P	P	P	P	P	P	P		
Planned Unit Development, mobile home.						P				
Plastic fabrication.									R	R
Plumbing shop.								P	R	R
Police substation, including Highway Patrol.	P	P	P	P	P	P	P	P		
Post office.	P	P	P	P	P	P	P	P		
Printing, blueprinting, bookbinding, photostating, lithographing and publishing establishment.							P	R		
Public utility production and maintenance buildings with proper screening.							P	P		
Public utility substation with proper screening.	P	P	P	P	P	P	P	P	P	P
Radio and television antenna (amateur).	P	P	P	P	P	P	P	P		
Radio and television station and transmitting tower (commercial).							P	P	P	
Radio and television sales, service and repair store.							R	R		
Railroad terminal facilities, non-passenger.								R	R	R
Recreational vehicle parks.						P		P	P	
Restaurant (not as an entertainment venue).							R	R		
Restaurant supplies and sales.								P		
Riding academy: need not be enclosed within a structure.	P							S		
Roofing and sheet metal shop.								S	R	R
Rug and/or drapery cleaning service.								P		
Sand and gravel storage yard: need not be enclosed within a structure.								S	R	R
Sawmill or planing mill.									R	R
Schools, public and/or private, elementary and/or secondary meeting the requirements of the education laws of the State of Alabama.	P	P	P	P	P	P	P	P	P	P
Seafood store, retail.							P	R		
Sewage disposal plant: need not be enclosed within a structure.	P	P	P	P	P	P	P	P	P	P
Shoe repair shop.							R	R		
Shoe store, retail.							R	R		
Sign shop.							P	R		
Sporting goods store.							R	R		

	R-A	R-1	R-2	R-3	R-4	R-5	B-1	B-2	M-1	M-2
Stone monument sales, retail: may include cutting and processing merchandise sold at retail on the site; need not be enclosed within a structure.								S	P	P
Studio for professional work or teaching of fine arts, such as photography, drama, speech, painting.							R	R		
Studio for dance or music.							R	R		
Surgical or dental supplies retail.								R		
Tailor shop.							R	R		
Taxi dispatching station.							R	R		
Taxi terminal: storage and repair of vehicles.								R		
Taxidermy shop.							R	R		
Teen club or youth center.							R	R		
Telecommunications towers and facilities									S	S
Telephone exchange.		P	P	P	P	P	P	P	P	P
Telephone equipment storage including shops and garage: need not be enclosed within a structure but must provide adequate screening.							S	P		
Tire, batteries and other automotive accessories sales establishments.								R		
Tobacco store.							R	R		
Toy store.							R	R		
Trade school or college.	S						P	P		
Transit vehicle storage and servicing: need not be enclosed within a structure.								P		
Utility company storage facility: need not be enclosed within a structure but must provide adequate screening.								P		
Variety store.							P	R		
Veterinary service.	P						P	P		
Warehouse and storage facilities, major.								P	R	P
Warehouse and storage facilities, minor: mini-type do-it-yourself storage facilities.								P	P	
Water storage: need not be enclosed within a structure.	P	P	P	P	P	P	P	P	P	P
Water or sewage pumping station.	P	P	P	P	P	P	P	P	P	P
Welding shop.								S	R	R
Well drilling company.								S	R	
Well, Irrigation	R	R	R	R	R	R	R	R	R	R

	R-A	R-1	R-2	R-3	R-4	R-5	B-1	B-2	M-1	M-2
Well, Private										
YMCA, YWCA and similar institutions.	S	S	S	S	S	S	P	P		
Zoo: need not be enclosed within a structure.	P									

**8.11 Requirements for Lot Area, Lot Width, Coverage, Density and Other Factors:**

The following shall apply in each residential district as listed:

	<i>Minimum Lot Area (Sq. Ft.)</i>	<i>Minimum Lot Width &amp; Building Line</i>	<i>Maximum Lot Coverage (%) *</i>	<i>Maximum Density**</i>
<i>R-1 Low Density Residential Single Family</i>	15,000	100	25	3.0
<i>R-2 Medium Density Residential Single Family</i>	9,000	70	25	4.0
<i>R-3 Higher Density Single Family Residential</i>				
Single Family	7,200	50	30	5.0
Two Family	10,000	65	35	7.0
<i>R-4 High Density Multi-Family</i>				
Single Family	7,200	50	30	5.0
Two Family	10,000	65	35	7.0
Multiple Family	7,500***	65	35	14.0

\*Does not apply to lots of record smaller than required in the district in which they are located.

\*\* Dwelling units per gross acre to be developed.

\*\*\* For one (1) unit plus 2,500 sq. ft. for each additional unit.

**8.12 Minimum Setbacks**

The following front, rear and side yard setbacks shall apply in districts as listed, except in Planned Unit Development and Innovative Design Residential Developments:

	Front Yard		Rear Yard	Side Yard	Corner Lot Side Yard	
	Arterial and Collector Streets	Local Streets and Service Roads			Arterial and Collector Streets	Local Streets and Service
R-1	30	30	30	15	30	25
R-2	30	25	30	10	30	20
R-3	30	25	30	a	30	20
R-4	30	25	30	a	30	30
R-5	See Article 9, Section 9.1					
B-1	30	20	b	b	20	10
B-2	30	20	b	b	30	25
DHB	d	d	d	d	d	d
M-1	50	30	c	c	50	30
M-2	50	30	c	c	50	30

- a. Ten feet plus two additional feet for each floor above two stories, but not exceeding 20 feet; and when dwelling unit faces side yard, the dwelling unit must not be less than 25 feet from the side lot line.
- b. None, except it will be five feet if abutting an alley, and when abutting a residential district, it shall be not less than 20 feet.
- c. None, except it will be five feet if abutting an alley; and when abutting a residential district, it shall be not less than 50 feet.
- d. The building setback lines in the downtown historic business district overlay zone shall be similar and consistent with what is existing on the same street within the same block of the proposed building.

**ARTICLE 9. SPECIAL PROVISIONS****9.1 Manufactured / Mobile Home Parks**

In districts where manufactured home parks are permitted, the following minimum standards shall apply, as well as the present minimum regulations established by the State Board of Public Health.

**9.1.1 Minimum Park Requirements**

*Area:* Three (3) acres and fifteen (15) spaces available for immediate occupancy; 4,000 square feet of land area for each manufactured home to be parked.

*Yards:* Front, rear and side - twenty-five (25) feet.

*Height:* Maximum one (1) story of fifteen (15) feet.

**9.1.2 Manufactured Home Space Requirements**

*Space Width:* 40 feet minimum

*Front Yard:* 10 feet minimum

*Side Yard:* 20 feet between mobile homes

*Parking:* Two (2) spaces for each mobile home space off-street, and shall be hard surfaced with all-weather materials.

**9.1.3 Other Requirements**

- a. Access roads within manufactured home parks shall be not less than twenty-four (24) feet and shall be paved with a hard surface treatment.
- b. Guest parking facilities shall be established and maintained at a ratio of one space per four (4) manufactured home spaces. If access roads are paved to a width of thirty-two feet, guest off-street parking spaces shall not be required.
- c. Each manufactured home space shall be equipped with a pad ten (10) feet wide by forty-five (45) feet long of six (6) inches of compacted gravel or other similar material.
- d. Each manufactured home space shall be furnished with utility connections to public water, sewer and electricity.
- e. Manufactured homes may not be used for non-residential use within mobile home parks.
- f. The ground surface in all parts of a park shall be graded and equipped to drain all surface water in a safe, efficient manner. The adequacy of drainage facilities shall be verified by a licensed professional engineer.



#### 9.1.4 *Access and Traffic Circulation*

- a. Internal streets shall be privately owned, built and maintained and shall be designed for safe and convenient access to all stands and parking spaces and to common use of park facilities.
- b. An internal street or common access route shall be provided to each stand. The street shall be a minimum of twenty-four (24) feet in width. The internal street shall be continuous or shall be provided with a cul-de-sac having a minimum radius of sixty (60) feet. No internal street ending in a cul-de-sac shall exceed four hundred (400) feet in length.
- c. All streets shall be constructed to meet the minimum specification for streets within the City of Bay Minette with the exception of curbing. A concrete lay down curb or acceptable substitute shall be used as approved by the City Planner.
- d. Internal streets shall be maintained free of cracks, holes and other hazards at the expense of the licensee.
- e. All streets within each park shall be numbered or named in an approved manner.
- f. Interior streets shall intersect adjoining public streets at ninety degrees (90°) and at locations which will eliminate or minimize interference with the traffic on those public streets.
- g. At each entrance to the park, an 18" x 24" sign should be posted stating "Private Drive", "No Thru Traffic". The licensee may also post a speed limit sign on this same spot.

9.1.5 *Park Lighting.* Adequate lighting shall be provided in a manner approved by the City Planner. All electric and telephone lines should be placed underground when possible.

9.1.6 *Recreation Area.* All manufactured home parks shall have at least one recreation area located to be free of traffic hazards, easily accessible to all park residents and centrally located where topography permits. Not less than ten (10) percent of the gross park area shall be devoted to recreational facilities. Such space shall be maintained in a useable and sanitary condition by the licensee.

9.1.7 *Utility Requirements.* Each manufactured home shall be connected to the municipal water system and to the municipal sewage disposal system if available. The design and specifications of the utility systems shall meet City specifications and shall be approved by the appointed City Engineer. If the municipal utility system is not available, then a private central system shall be required until such time as the municipal systems become available. The design and specifications of such systems shall be installed under inspection of the appropriate City department.

9.1.8 *Manufactured Home Standards.* To protect the health and safety of the public and assure quality construction, all manufactured home units shall be constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 as amended, U.S.C. 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.

## 9.2 Parking Design Standards and Improvement Requirements

9.2.1 *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' x 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 afford unobstructed ingress and egress to each space.

9.2.1.1 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.

9.2.1.2 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 Planning Commission.

9.2.1.3 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.

9.2.1.4 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.

9.2.1.5 The Planning Commission may modify the parking requirements provided in this section for the downtown historic business overlay zone. Consideration will be given when an applicant is unable to adhere to the strict application of these requirements for public parking and demonstrates good and sufficient reason for relief.

9.2.2 *Parking Decks.* Where business and multi-family 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 levels above ground or 25 percent of the height of the principal structure, whichever is greater.

9.2.2.1 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.

9.2.2.2 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.

9.2.3 *Parking Schedule*

*Land Use*

*Parking Requirements*

9.2.3.1 *Dwellings:*

- |   |   |
|---|---|
| a. One and two families:                            | Two spaces for each dwelling unit.                |
| b. Multiple: One and one-half spaces for each unit. |   |
| c. Hotels:  | One and one-fourth spaces for each guest bedroom. |
| d. Motels, tourist courts and tourist homes:        | One and one-half spaces for each guest bedroom    |
| e. Mobile home courts and parks:                    | Two spaces per unit.                              |
| f. Boarding and rooming houses, dormitories:        | One space for each guest bedroom.                 |

9.2.3.2 *Public Assembly*

- |  |  |
|--|--|
| a. Churches or other places of worship:  | One space for each four seats in the main auditorium or sanctuary. |
| b. Private clubs, lodges and fraternal buildings not providing overnight accommodations: | One space for each 100 square feet of building under roof.         |
| c. Theaters, auditoriums, coliseums, stadiums and similar places of assembly:            | One space for each four seats.                                     |

- d. Libraries, museums: One space for each 500 square feet of gross floor area.
- e. Schools, including kindergartens, playschools and day care centers: One space for each four seats in assembly hall, or one space for each employee, including teachers and administrators, whichever is greater, plus five spaces per classroom for high school and colleges.
- f. Skating rinks, dance halls, exhibition halls, pool rooms and other places of amusement or assembly without fixed seating arrangements: One space for each 200 square feet of floor area.
- g. Bowling alleys: Four spaces for each alley.

9.2.3.3 *Health Facilities*

- a. Hospitals, sanitariums, nursing homes, homes for the aged and similar institutional uses: One space for each four beds, plus one space for each employee on the maximum shift.
- 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 space for each 200 square feet of floor area used for offices and similar purposes.
- d. Mortuaries and funeral parlors: Ten spaces per parlor chapel unit, or one space per two seats, whichever is greater.

9.2.3.4 *Business:*

- a. Commercial establishments and offices, including but not limited to the following: Four parking spaces for up to 400 square feet of gross floor area, plus one parking space for each additional 800 square feet of gross floor area, up to 5,000 square feet plus one parking space for each additional 300 square feet of gross floor area over 5,000 square feet.

Food stores, furniture stores, general business, commercial or personal service establishments catering to the retail trade, but excluding food stores.

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.

Restaurants, including bars, grills, diners, cafes, taverns, nightclubs, lunch counters, and all similar dining and/or drinking establishments.

One and one-fourth spaces for each four seats.

b. Shopping centers:

One space per 400 square feet gross floor area.

c. Marinas:

Two spaces per berth. Also applies to dry storage

*9.2.3.5 Industries:*

a. Commercial, manufacturing and industrial establishments, not catering to the retail trade:

One space for each employee on the maximum working shift, plus one space for each vehicle operating from the premises.

b. Wholesale establishments:

One space for every 50 square feet of customer services area, plus two spaces for each three employees on the maximum working shift, plus one space for each company vehicle operating from the premises.

- c. Electric power and gas substations: Twenty-five percent of the parcel on which located or four spaces, whichever is smaller.

9.2.3.6 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.

9.2.4 *Permit.* A parking area permit approved by the City Planner shall be required for any parking area with a design capacity for six (6) or more vehicles if not previously permitted.

9.2.5 *Parking Area Dimensions.* The design and dimensions of the parking area shall be in accordance with the following dimensions table and provide for handicap parking spaces and sidewalk accessibility in accordance with the Americans with Disabilities Act.

Angle of Parking	Curb Length Per Car	Stall Depth	Access Driveway Length
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"	14'0"
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"

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

9.2.7 *Paving Standards.* Parking spaces and driveways shall be paved to standards established by the City of Bay Minette.

9.2.8 *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.

9.2.9 *Landscaping.* The design and appearance of parking areas shall be in accordance with Section 10.10.

### 9.3 Off-Street Loading and Unloading Space

Off-street loading/unloading spaces shall be provided as hereinafter required by this Ordinance.

9.3.1 *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 Planning Commission may reduce the minimum length accordingly to as little as 35 feet.

9.3.2 *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.

### 9.4 Telecommunications Towers and Facilities

9.4.1 *Purpose.* The purpose of this section is to establish minimum standards for wireless telecommunications facilities. The underlying principals of these standards are to:

9.4.1.1 Achieve a balance among the number, height, and density of wireless telecommunications facilities that is appropriate for our communities;

9.4.1.2 Encourage and maximize the use of existing and approved towers, buildings and other structures to accommodate new wireless telecommunications facilities;

9.4.1.3 Ensure the compatibility of towers with, and avoid adverse impacts to, nearby properties; and

9.4.1.4 Discourage the proliferation of towers throughout the City of Bay Minette.

9.4.2 *Definitions.*

*Accessory structure compound.* A fenced, secured enclosure in which a wireless telecommunications facility and its equipment, buildings, access roads, parking area and other accessory devices / auxiliary structures are located.

*Alternative support structure.* Any structure other than a wireless telecommunications tower, which may include, but is not limited to, buildings, water towers, light poles, power poles, telephone poles, and other essential public utility structures.

*Antenna.* An electromagnetic device which conducts radio signals, through an attached cable or wave guide, to or from a radio transmitter or receiver. Typically, this includes "whips", "cornucopia horns", "panels", and parabolic "dishes".

*Antenna support structure.* Any structure on which telecommunications antennas and cabling can be attached. Typically, this includes steel towers with guy-wires (guyed towers); wooden, steel or concrete single poles (monopoles); self-supporting steel towers with three or four

"legs" (self-supporting/lattice towers); rooftops of existing buildings or structures (such as elevated water storage tanks). (see also *tower*)

*Co-location.* The placement of more than one wireless communications antenna by one or more telecommunications service providers on a single existing or new antenna support structure.

*Concealment techniques.* Design techniques used to blend a wireless telecommunications facility, including any antennas thereon, unobtrusively into the existing surroundings so as to not have the appearance of a wireless telecommunications facility. Such structures shall be considered wireless telecommunications facilities and not spires, belfries, cupolas, or other appurtenances usually required to be placed above the roof level for purposes of applying height such as building bulk, massing, and architectural treatment of both the wireless telecommunications facility and surrounding development. Concealed towers on developed property must be disguised to appear as either a part of the structure housing, a principal use, or an accessory structure that is normally associated with the principal use occupying the property. Concealed towers developed on unimproved property must be disguised to blend in with the existing vegetation. *Example:* a tower of such design and treated with architectural material so camouflaged to resemble a woody tree with a single trunk and branches on its upper part (also known as a "monopine").

*FAA.* Federal Aviation Administration.

*FCC.* Federal Communications Commission.

*Height.* When referring to a tower or other structure, the distance measured from the ground level at the base of the tower to the highest point on the tower or structure, including if said highest point is an antenna placed on a structure or tower.

*Tower.* Any structure that is designed and constructed primarily for the purpose of supporting one or more antenna, including self supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and the like. (see also *antenna support structure*)

#### 9.4.3 *Procedures and standards.*

9.4.3.1 *Where permitted.* Wireless telecommunications facilities shall be permitted in the Police Jurisdiction and by special exception in M-1 and M-2 zoning districts. Antennas located on existing towers (co-location antennas) and antennas located on alternative support structures shall be permitted by right.

##### 9.4.3.2 *Height.*

- a. Antennas located on alternative support structures shall not exceed 15 feet in height above the existing structure on which they are placed.
- b. Tower height shall be limited to 180 ft.



9.4.3.3 *Setbacks.* Towers (but not guys and accessory structures) may be placed no closer than a distance equal to the height of the wireless telecommunications facility from any residential structure on adjacent property. Where a tower is permitted in a zoning district adjacent to any residential district the required setback from all residentially zoned property lines shall be a distance equal to the height of the tower.

a. Co-location.

1. No new antenna support structure shall be permitted unless the applicant demonstrates that no existing antenna support structure can accommodate the applicant's needs.
2. No signage, symbols, or advertisements may be attached to the pole, tower or antenna.
3. Monopole structures shall have the ability to accommodate at least one (1) additional set of antennas. Guyed structures and self-supporting towers shall have the ability to accommodate at least two (2) additional sets of antennas.

9.4.3.4 *Aesthetics.* The aesthetic properties of each individual wireless telecommunications facility shall be approved as part of the site plan review process.

a. Appearance. The design of the tower shall be of a type that has the least visual impact on the surrounding area.

1. Towers and antennas shall be painted a neutral or blending color so as to reduce visual obtrusiveness, unless subject to any applicable FAA standards. If an antenna is installed on a structure other than a tower, the antenna and supporting telecommunications facilities must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure.
2. No signage, symbols, or advertisements may be attached to the pole, tower or antenna.
3. Towers camouflaged to resemble woody trees or indigenous vegetation in order to blend in with the native landscape will be subject to administrative review, as are types of concealment techniques (see *Concealment techniques*).

9.4.3.5 *Accessory structures.*

- a. The design of the compound and its accessory structures shall, to the extent possible, maximize use of building materials, colors, textures, screening and landscaping that effectively blend the tower facilities within the surrounding natural setting and built environment.
- b. In or adjacent to developed properties, accessory structures must be

aesthetically and architecturally compatible with the surrounding environment. Materials such as wood, brick, and stucco should be used as appropriate. the use of metal or metallic-looking materials shall be prohibited.

*9.4.3.6 Non vegetative screening.*

- a. Non vegetative screening will be required when it is necessary to reduce the visual impact of a wireless telecommunications compound on adjacent public ways, properties or the neighborhood in which it is located. In or adjacent to developed properties, non vegetative screening shall be provided in a manner that is compatible with the surrounding character of development, buildings, natural vegetation, and landscaping. Such screening, as required and subject to site plan review, shall have a minimum height of 8 feet, and may consist of one of the following: brick masonry walls, solid wood fencing, berms, or opaque barriers. All non vegetative screening shall be properly maintained by the property owner or lessor.
- b. In certain locations where the visual impact of the tower would be minimal, such as remote, agricultural or rural locations or developed heavy industrial areas, the non vegetative screening requirement may be reduced.
- c. Wireless telecommunications facilities utilizing underground vaults rather than above ground equipment buildings may be exempted from screening requirements.

*9.4.3.7 Landscaping.*

- a. Landscaping will be required to reduce the visual impact of the compound and its accessory structures on adjacent public ways, properties or the neighborhood in which it is located. In or adjacent to developed properties, landscaping shall be provided in a manner that is compatible with the surrounding character of development, buildings, and natural vegetation.
- b. The perimeter of the compound shall be landscaped with a buffer of plant materials that effectively screens the view of the compound from adjacent property and public ways. The standard buffer shall consist of a landscaped strip of at least five (5) feet wide outside the perimeter of the compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced.
- c. A row of trees a minimum of eight (8) feet tall and a maximum of 10 feet apart shall be planted around the perimeter of the compound fence. A continuous hedge at least 30 inches high at planting capable of growing to at least 36 inches in height within 18 months shall be planted in front of the tree line.
- d. All landscaping shall be of the evergreen variety. All landscaping shall be xeriscape tolerant or irrigated and properly maintained by the property owner or lessor to ensure good health and variety.

#### 9.4.3.8 *Lighting.*

- a. Towers shall not be artificially lighted unless required by the FAA or other authority for safety purposes. If lighting is required, "dual lighting" (red at night/strobe during day) shall be preferred unless restricted by the FAA. Lighting must be shielded or directed upward to the greatest extent possible so as to minimize the amount of light that falls onto nearby properties, particularly residences.
- b. Basic security lighting for the compound may be permitted, but shall be focused only on the compound itself, and shall be directed away from any adjacent property.

9.4.3.9 *Environmental impact.* All wireless telecommunications facilities shall comply with the National Environmental Policy Act. If an environmental assessment is required by the federal Communications Commission (FCC), a copy of the assessment, as well as documentation of the FCC's subsequent approval thereof, must be submitted at the time of application.

#### 9.4.3.10 *Safety.*

- a. *Radio frequency.* The applicant shall be required to submit documentation that the proposed wireless telecommunications facility complies with the FCC standards for radio frequency emissions, as adopted by the FCC on August 1, 1996.
- b. *Structural.* A Professional Engineer shall certify that all antenna support structures and wireless telecommunications equipment are erected and/or installed so as to comply with the co-locations requirements of this ordinance, wind loading and other structural standards contained in the building Code as adopted by the City of Bay Minette and the applicable technical codes established by the Electronic Industries Association (EIA/TIA 22-E "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures) or the Telecommunications Industry Association. This shall apply to new and modified structures and facilities.
- c. *Security of site.* Fencing shall be required to ensure that antenna support structures and their accessory buildings are fully secured. Sufficient anti-climbing measures must be incorporated into each facility, as needed, to reduce potential for trespass and injury.

9.4.3.11 *Obsolete towers.* In the event the use of any wireless telecommunications facility has been discontinued for the period of 180 days, the wireless telecommunications facility shall be deemed to be abandoned. Determination of the date of the abandonment shall be made by the Building Official. Upon such abandonment, the owner/operator of the wireless telecommunications facility shall have an additional 180 days within which to reactivate the use of the wireless telecommunications facility to another owner/operator who makes actual use of the wireless telecommunications facility, or dismantle and remove the wireless telecommunications facility.

## 9.5 Apartments, Townhouses and Condominiums

Within the Districts permitting multi-family units, the following requirements shall apply:

- 9.5.1 No more than eight (8) continuous apartments, townhouses and condominiums per floor shall be built in a row with approximately the same front line.
- 9.5.2 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.
- 9.5.3 No more than thirty-five (35) percent of the lot area shall be occupied by buildings.
- 9.5.4 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.
- 9.5.5 All multi-family 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.
- 9.5.6 All other requirements within the district in which the apartments, townhouses or condominiums are located shall prevail.

## 9.6 Automobile Service Stations

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

- 9.6.1 *Location.* The property on which an automobile service station is located shall not be within 100 feet of any residential district, or any property containing a school, public playground, church, hospital, public library, institution for children, elderly or dependents.
- 9.6.2 *Site Requirements.* An automobile service station shall have a minimum frontage on the primary street of 120 feet and a minimum lot area of 23,000 square feet. All buildings shall be setback forty (40) feet from all street right-of-way lines, fifty (50) feet from major arterials, and all canopies shall be setback fifteen (15) feet from all street right-of-way lines.
- 9.6.3 *Access to Site.* Vehicular entrances or exits at an automobile service station:
  - 9.6.3.1 Shall not be provided with more than two curb cuts for the first 120 feet of street frontage or fraction thereof.

- 9.6.3.2 Shall contain an access width along the curb line 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.
- 9.6.3.3 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.
- 9.6.4 *Gasoline Pump Islands.* All gasoline pump islands shall be setback 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 center line of an arterial street, 55 feet from the center line of a collector street and 45 feet from the center line of other streets.
- 9.6.5 *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.
- 9.6.6 *Other Site Improvements.* In addition to the above requirements, the following additional site improvements shall be adhered to:
- 9.6.6.1 A solid fence or wall not less than six (6) feet nor more than eight (8) feet in height, plus a hedge or shrubbery screen, shall be erected along all adjacent property lines facing any adjacent residential lot.
- 9.6.6.2 Exterior lighting shall be arranged so that it is deflected away from adjacent properties.
- 9.6.6.3 Signs, whether permanent or temporary, shall not be placed within any public right-of-way within the corporate limits of the City of Bay Minette. Signs permitted for display on private property shall be arranged so that they do not obstruct visibility for drivers or pedestrians.
- 9.6.6.4 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.
- 9.6.6.5 A raised curb of at least six (6) inches in height shall be erected along the street property lines, except for driveway openings.
- 9.6.7 *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.

## 9.7 Cemeteries

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

- 9.7.1 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.
- 9.7.2 Any new cemetery shall be located on a site containing not less than 20 acres.
- 9.7.3 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.
- 9.7.4 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.
- 9.7.5 The entire cemetery property shall be landscaped and maintained.
- 9.7.6 An application must be made to the Planning Commission for any extension of existing cemeteries.

#### **9.8 Mobile Food Vending Vehicles and Mobile Merchandise Vending Units Pilot Program**

- 9.8.1 *Mobile Vending Units, Generally.* For the purposes of this section, a “Mobile Vending Unit” refers to both Mobile Food Vending Vehicles and Mobile Merchandise Vending Units.
  - 9.8.1.1 Mobile Vending Units are permitted to operate in non-residential zoning districts (B-1, B-2, M-1 or M-2) on private property with express written permission from the property owner. Units are encouraged to locate on sites developed with a principle building that has a current City business license and an operating use.
  - 9.8.1.2 Mobile Vendors are required to obtain a business license and Mobile Vending Permit from the City of Bay Minette prior to commencing operations within the city.
  - 9.8.1.3 Vendors must operate in a safe and sanitary manner and kept in a clean, well-maintained condition to ensure units are free of excessive dirt, rust, mud, grease or other unsightly, unsanitary or otherwise undesirable condition.
  - 9.8.1.4 Mobile Vending Units shall be permitted to a location that does not block drive aisles, ingress or egress from the property, or fire and emergency access.
  - 9.8.1.5 Mobile Vending Units shall be removed at times other than the hours of operation and the set-up and take-down periods. Vehicles shall not be left unattended or stored at any time on an authorized operating site when vending is not taking place or during restricted hours of operation.
  - 9.8.1.6 Mobile Vending Units shall not use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns or whistles or similar devices

to attract customers.

9.8.1.7 Any auxiliary power, water or sewer utilities required for the operation of the Mobile Vending Unit shall be self-contained or provided by the property owner.

9.8.1.8 Vendors shall serve only walk-up customers, no drive-thru service allowed

9.8.1.9 Parking Considerations

- a. The Mobile Vendor Unit, nor related customer vehicles, cannot obstruct any street or sidewalk, or interfere with the free passage of persons/vehicles on such streets or sidewalks.
- b. Parking of the Mobile Vending Unit cannot be located in City right of way in municipal limits
- c. Mobile Vendors should encourage pedestrian access where possible. When vehicular access is required, Vendor must ensure customer parking is contained on property where parking permission has been obtained for that purpose.

9.8.1.10 The provisions of this section shall not apply to special events, festivals, community projects or public events which occur on a periodic basis and are approved by the City.

#### 9.8.2 Mobile Food Vending Vehicles

9.8.2.1 All Mobile Food Vending Vehicles must be inspected initially by the City of Bay Minette Fire Inspector. Annual inspections are required, and each Mobile Food Vending Vehicle is subject to re-inspection at any time.

9.8.2.2 The selling of non-food or non-drink items shall be limited to merchandise displaying the Mobile Food Vending Vehicle company logo and/or branding. No items shall be displayed outside of the vehicle.

9.8.2.3 No signage is allowed except signage physically affixed to the Mobile Vending Unit identifying the vendor and no more than two, 24" x 48" sandwich board-type signs displaying menu, pricing or other similar information. The signs may be displayed only during business hours and shall not obstruct or impede pedestrian or vehicular traffic. Electronic or illuminated signs are not allowed.

9.8.2.4 Mobile Food Vending Vehicles shall not provide furniture, objects or structures outside of the vehicle for customer use with the exception of trash receptacles and shade structures attached to the vehicle.

- 9.8.2.5 All Mobile Food Vending Vehicles shall offer a trash receptacle for customer use that must be removed with the vehicle each day at the vendor's expense. Mobile Food Vendors shall keep the permitted premise and adjacent public property clean and free from all trash, litter, debris or waste generated from the operation of its business.
- 9.8.2.6 Any auxiliary power, water or sewer utilities required for the operation of the Mobile Food Vending Vehicle shall be self-contained or provided by the property owner.
- 9.8.2.7 The provisions of this section shall not apply to special events, festivals, community projects or public events which occur on a periodic basis and are approved by the City.
- 9.8.2.8 No more than two mobile food units shall operate on the same site per day.
- 9.8.2.9 Mobile Food Vending Location Requirements
- a. A minimum of 150 feet from the front door of any restaurant in current operation, without written permission from the restaurant owner.
  - b. A minimum of 150 feet from Primary schools within city limits, measured from the nearest lot line of the school, without written permission from the School's Principal.
  - c. A minimum of 500 feet from any stadium, ballpark, festival, special event or other similar sponsored event licensed or authorized by the City, unless authorized by the sponsor to be participants in the event.
  - d. A minimum 15-foot clearance from fire hydrants, driveway entrances and handicap parking spaces/ramps.
  - e. A minimum 10-foot clearance from buildings, fire lanes, sidewalks or utility box.
  - f. When located on or adjacent to a street, food service shall be solely from the side of the unit that opens away from the street.

### *9.8.3 Mobile Merchandise Vending Unit*

- 9.8.3.1 Merchandise is limited to non-consumable items and/or items not intended for individual consumption at the point of sale.
- 9.8.3.2 No more than two Mobile Vending Units shall operate on the same site per day.
- 9.8.3.3 No signs shall be allowed, other than that which is physically attached to the unit. One, 24" x 48" sandwich board-style sign identifying the vendor or indicating pricing, may be displayed within 10 feet of the unit. The sign may be displayed only during business hours, shall not obstruct or impede pedestrian or vehicular traffic, and shall



be located on-site. Electronic or illuminated signs are not allowed.

**9.8.3.4 Mobile Merchandise Vending Unit Location Requirements**

- a. A minimum 15-foot clearance from fire hydrants, driveway entrances and handicap parking spaces/ramps.
- b. A minimum 10-foot clearance from buildings, fire lanes, sidewalks or utility box.
- c. When located on or adjacent to a street, service shall be solely from the side of the unit that opens away from the street.

**9.8.4 Mobile Vending Unit Permit**

**9.8.4.1 Fees** for a Mobile Vending Permit are as follows and will not be prorated:

- a. Daily Permit (single 24-hour period) - \$25.00
- b. Monthly Permit (per calendar month) - \$50.00
- c. Annual Permit (January 1 – December 31) - \$100.00
- d. In addition, a \$25.00 Administrative Land Use Review is required per site, prior to commencing operations.

**9.8.4.2** Mobile Vendors shall have express written permission of the property and/or business owner(s) for each location at which the mobile vending unit operates. This approval shall be in writing, signed by the property and business owner(s), shall remain on the mobile vending unit at all times and must be made available for inspection upon request of any city official at any time during the operation of the mobile vending unit.

**9.8.4.3** Prior to the issuance of a City of Bay Minette business license or Mobile Vending Permit, Vendors are required to obtain all applicable licenses/permits, including but not limited to Alabama Department of Public Health permits and Alabama Department of Motor Vehicles licensing.

**9.8.4.4** Mobile Vending Units and site locations are subject to the review and approval of the Bay Minette Police Department and the Bay Minette Fire Department at any time.

**9.8.4.5** Compliance with *Article 9.8* shall be determined at the time of application or at the discretion of the Planning Staff if determined in the field. Mobile Vending Units determined to be non-compliant shall immediately institute all corrective action(s) deemed necessary.

**9.8.4.6** Operation without a Mobile Vending Permit will result in a \$500.00 fine. If found in violation of any section of this ordinance, vendor may be issued a ticket for violation and fined an amount of \$25.00 - \$250.00 Each violation is considered a separate and distinct offense; and each day is a separate violation.

## ARTICLE 10. LANDSCAPE AND TREE PROTECTION

**10.1 Purpose.** The purpose of a Landscape and Tree Protection Article is to establish minimum standards for the provisions, installation, and maintenance of landscape plantings and tree preservation in order to achieve a healthy, beautiful, and safe community by the following means:

*10.1.1 Aesthetics.* Improve the appearance of all areas through the incorporation of open space into development in ways that harmonize and enhance the natural and built environment.

*10.1.2 Environmental Quality.* Improve environmental quality by recognizing the numerous beneficial effects of landscaping and tree preservation upon the environment.

*10.1.3 Land Values.* Maintain and increase the value of land by requiring landscaping and tree preservation to be incorporated in development thus becoming itself a valuable capital asset.

*10.1.4 Human Values.* Provide direct and important physical and psychological benefits to human beings through the use of landscaping and tree preservation to reduce noise and glare, and to break up the monotony and soften the harsher aspects of urban development.

*10.1.5 Preservation of Vegetation.* Preserve existing natural vegetation and the incorporation of native plants, plant communities and ecosystems into landscape design, where possible.

*10.1.6 Improve Design.* Promote innovative and cost-conscious approaches to the design installation, and maintenance of landscaping, encouraging existing tree preservation, water and energy conservation.

*10.1.7 Improved Administration and Enforcement.* Establish procedures and standards for the administration and enforcement of this article.

### 10.2 Definitions

*Caliper.* Diameter of a tree trunk. Caliper determines the minimum size of trees planted to fulfill this ordinance. For trees less than 4" in diameter, to be measured 6" above the ground. For trees from 4" to 12" in diameter, to be measured 12" above the ground.

*D.B.H.* Diameter at Breast Height. Use to measure all existing trees 4.5 feet above the grade with a diameter greater than 12 inches.

*Landscape Plan.* A component of a development plan on which is shown: proposed landscaping species (such as number, spacing size at time of planting, and planting details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features; grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving authority.

*Overstory Tree.* Trees, which at maturity comprise the canopy of a natural forest. Generally greater than fifty (50) feet at mature height.

*Public/City Tree.* Any tree located on city or public property including city right-of-way.

*Significant Tree.* Any tree that has aged and grown to an impressive stature (for its species) to be considered an integral part of the city's natural heritage.

*Site Plan.* The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulating; utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that reasonably may be required in order that an informed decisions can be made by the approving authority.

*Understory Tree.* Trees, which at maturity comprise the sub-canopy of a natural forest. These are generally 20-40 feet at mature height.

### **10.3 Use and Applicability**

*10.3.1* The provisions of this article shall be required for all residential multi-family projects involving the construction of three (3) or more dwelling units including apartments, town homes, condominiums, planned unit developments, subdivisions, all commercial structures, all industrial structures, and other uses as required by the Planning Commission.

*10.3.2* Where a change in the following: 1) use of property, 2) occupancy, 3) ownership regardless of name change, or 4) location in any manner to any business or commercial/industrial development it shall be the responsibility of the owner to comply with the provision of this article within one hundred and eighty (180) days.

*10.3.3* A site or subdivision plan shall not be approved by the Planning Commission without an acceptable landscape plan, as the same is defined pursuant to the provision of this article.

*10.3.4* If proposed construction causes changes in the landscape plan, a revised landscape plan must be submitted to the City Planner or their designee for re-evaluation.

*10.3.5* All properties owned by the City of Bay Minette shall be in compliance with this article.

### **10.4 Landscape Plan Standards**

*Landscape Plans.* A landscape plan shall be submitted in accordance with this Section as part of the site or subdivision plan to the City of Bay Minette Building Department and approved by the City of Bay Minette Planning Commission prior to commencing any site preparation or construction activities. Landscape plans shall be of a professional quality and include:

- 10.4.1 Date, scale, north arrow, title, and names and contact information for property owner(s), developer, and landscape designer.
- 10.4.2 Location of existing boundary line dimensions of the building site, existing water sources, significant drainage features, existing and proposed utility easements on or adjacent to the building site, city road rights-of-way, required setbacks, locations of proposed parking spaces, and location of existing or proposed sidewalks.
- 10.4.3 The locations, species, and D.B.H. (Diameter at Breast Height) of existing significant trees indicating those to be retained, and those significant trees to be removed, along with written justification for removal of nay significant trees.
- 10.4.4 The location(s) and dimension(s) of the proposed landscape areas within the parking area(s) including a description of new trees and plant materials to be placed within landscaped area(s). Both common and botanical names shall be included.
- 10.4.5 An indication, using written or graphic information, of how the applicant plans to protect from damage during construction any existing trees and other vegetation, which are proposed to be retained.
- 10.4.6 An indication, using written or graphic information, of how the applicant intends to protect tree roots by controlling erosion or sediment loss during construction.
- 10.4.7 Locations, type, and design of any proposed irrigation systems.
- 10.4.8 Location and species of buffer zone vegetation.

## 10.5 Landscape Requirements

- 10.5.1 A minimum of fifteen percent (15%) of the total lot area shall be landscaped or maintained as open green space. The foregoing percentage shall include all landscape requirements for parking areas. Provided however, at least five percent (5%) of the total landscaped area or green space must be located in the front yard and side yards of the lot in areas other than parking areas.
- 10.5.2 Plant sizes:
- All shrubs shall be installed as 5 gallon minimum (except herbaceous perennials and woody spreading shrubs on slopes).
  - All trees shall be installed as 15 gallon minimum. Exceptions for the use of smaller material for certain species which will be at the discretion of the City Official.
- 10.5.3 Sufficient ground cover (grass or other type of vegetation) is required on all non-parking surfaces on the lot to minimize soil erosion. The ground cover shall be in place prior to receiving certification from the City Official.

10.5.4 The landowner is responsible for upkeep and maintenance of the required landscaped areas of their lot. Should landscape areas, shrubs, and/or trees die or get damaged, the landowner is responsible for replacing the damaged plants and/or areas in compliance with the conditions of this Ordinance.

## 10.6 Trees

10.6.1 *Tree Survey.* A tree survey may be required by the Planning Commission. If required, the survey shall be made of the entire property and shall show all trees with a six inch or greater caliper. The landscape plan shall clearly show what existing trees, shrubbery and other vegetation will be retained; and what trees, shrubbery and other vegetation will be added to complete the final landscaping of the property.

10.6.2 *Protection of Significant Trees.* An overstory tree species is considered protected as a significant heritage tree if its D.B.H. exceeds twelve (12) inches. Likewise, an understory tree species becomes protected when it D.B.H. exceeds eight (8) inches. Hardwood trees of greater than six (6) inches at D.B.H. will be considered significant trees. Significant trees are protected under this article and cannot be cut or intentionally harmed without the express written permission from the City Planner or their designee.

10.6.3 *Tree Protection Zones.* All lands within one hundred (100) feet of the right-of-ways of U.S. Highway 31 South, U.S. Highway 31 North, State Highway 59, State Highway 287, McMeans Avenue, D'Olive Street and North Hand Avenue and fifty (50) feet of the right-of-ways of all other city streets are hereby declared to be tree protection zones. No tree within these zones shall be removed without first presenting justification based on the criteria noted in Section 9.6 without written approval from the City Planner or their designee.

Exception – Landowners owning undeveloped property prior to the adoption of this ordinance that can provide documentation that the property has been and intends to be used for future timber producing property, shall be allowed to harvest timber within these tree protection zones with the following stipulations:

- 1) Significant trees shall not be removed or damaged during timber harvest.
- 2) Clear cutting within these tree protection zones shall be prohibited. No tree less than six (6) inches D.B.H. shall be removed.

10.6.4 *Greenbelt Zone.* All developments along or abutting the right-of-ways of U.S. Highway 31 South, U.S. Highway 31 North, State Highway 59, State Highway 287, McMeans Avenue, D'Olive Street and North Hand Avenue shall maintain a minimum of ten (10) feet of the required thirty (30) foot setback as a landscaped greenbelt along the entire front width of the property except where curb cuts provided ingress and egress. If any of the thirty (30) foot front setbacks is used for parking, said greenbelt shall be in addition to the landscape requirements for parking areas describe in Section 9.2 of this Ordinance. 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. The trees

shall be shade of flowering trees and shall be at least three and one half (3 ½) inches or greater in caliper and twelve (12) feet in height at planting. There shall be a minimum of one (1) tree planted for every twenty-five (25) feet or fraction thereof of lot frontage, fifty (50) percent of which shall be shade trees having a maximum crown of seventy (70) feet.

## 10.7 Tree Removal.

10.7.1 All tree removals will be at the property owner's expense except for: 1) trees in the City right-of-way which are diseased, injured, in danger of falling close to existing structures as determined by the City or create unsafe vision clearance, the removal of which shall be funded by the City' or 2) trees beneath utility lines which threaten to damage utility lines, the removal of which is the duty of the utility company.

10.7.2 Tree Removal Permit. Any person wishing to remove or relocate a significant tree or any tree with a six-inch or greater caliper shall submit written application to the City Planner or their designee accompanied with a site plan. The following criteria must be established in order for the permit to be issued:

10.7.2.1 That the tree is located in an area where a structure or improvement may be placed according to a proposed site plan.

10.7.2.2 That the tree is diseased, injured in danger of falling too close to existing or proposed structures, interferes with existing utility service, creates unsafe vision clearance or conflicts with other ordinances, articles or regulations.

10.7.2.3 That the tree is, or will be after construction, in violation of federal, state, local laws or regulations, or causes the construction of violate federal, state or local laws or regulations, regulations pertaining to government programs financing the construction.

10.7.2.4 No tree greater than six (6) inches in diameter shall be removed unless it can be shown that the tree is a safety hazard to pedestrians, property or vehicular traffic; that it is diseased or weakened by age, storm, fire or other injury; that it is absolutely necessary to construct proposed improvements without incurring significant additional costs; or that it is necessary for the installation of solar energy equipment. In such case, the developer shall be required to plant replacement trees at least three and one half (3 ½) inches or greater in caliper and twelve (12) feet in height at planting and the landscaping plan shall show the placement of the proper number of required new trees. The plan shall include complete, concise and clear renderings and any other documentation required by the Planning Commission.

10.7.2.5 A permit may be denied if the tree is considered to have aged or grown to an impressive stature for its species or to be considered an integral part of the natural heritage of the City of Bay Minette and the City Planner or their designee determines that reasonable alternatives are available to cutting the tree.

**10.8 Replacement Trees.**

*10.8.1* In such cases as described in Section 10.6, the developer shall be required to plant two (2) replacement trees, purchased from a licensed source for each tree removed. The trees shall be shade or flowering trees and shall be at least three and one half (3 ½) inches or greater in caliper and twelve (12) feet in height in planting. The landscape plan shall show the placement and species of the proper number of required new trees. The plan shall include complete, concise and clear renderings or any other documentation required by the Zoning Administrator or selected designee and/or the Planning Commission.

**10.9 Planting Requirements.** Trees that are planted in accordance with this Article must be a minimum of three (3) different species per site and meet the following requirements:

*10.9.1* At least one (1) species must be a medium (understory) tree in order to promote species richness. Medium (understory) trees must have at least three (3) inches in caliper and eight (8) feet in height at planting.

*10.9.2* At least one (1) shall be a large (overstory) tree must have at least three and one half (3 ½) inches or greater in caliper and twelve (12) feet in height in planting.

*10.9.3* At least one (1) shall be a multi-stemmed understory trees must be a minimum of eight (8) feet in height and must have at least three (3) stems; each with a minimum caliper of three-fourths (¾) inches.

*10.9.4* Shrubs that can be pruned into tree form variations will not be approved toward tree planting requirements. These include but are not limited to tree forms of the following: Ligustrum; Indian Hawthorn; Tree Yaupon; and Camelia.

*10.9.5* It is recommended that trees be obtained from a licensed source. On site relocated trees may be acceptable.

*10.9.6* Maintenance of new plantings is the responsibility of the property owner. Any vegetation of trees planted or retained to fulfill this article which dies, becomes damaged or diseased must be replaced by the property owner by the beginning of the optimum planting season of the following year. The property owner must notify the City Planner or their designee in writing when the replacement tree(s)/vegetation has been planted.

**10.10 Off Street Parking Facilities.** The design and appearance of parking areas are intended to be compatible with the character of the community. Toward this objective, the following landscaping standards shall be observed in the construction of off-street parking areas accommodating six (6) or more parking spaces:

*10.10.1* Landscaped areas and perimeter areas shall be so graded as to receive a reasonable portion of the rainfall from the surrounding placement. Protective curbing around landscaped areas will leave openings for the flow of water onto unpaved areas.

- 10.10.2 At least ten (10) percent of the total interior area intended for off-street parking shall be suitably landscaped.
- 10.10.3 A maximum of twelve (12) parking spaces in a row will be permitted without a landscaped island.
- 10.10.4 Interior portions of the parking area shall be broken by provision of landscaped islands. Such landscaped area shall include the placement of shade or flowering trees at intervals of twelve (12) parking spaces; such trees shall be at least three and one half (3 ½) inches or greater in caliper and twelve (12) feet in height in planting.
- 10.10.5 Each separate landscaped area must be a minimum of ninety (90) square feet if it is to be counted toward the minimum landscaped area requirements.
- 10.10.6 Landscaped area shall be protected from vehicular encroachment by the use of curbing or wheel stops.
- 10.10.7 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.
- 10.10.8 A minimum of five (5) feet side and rear landscaping may be required in the landscape plan depending on the topography and arrangement of packing 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 City Planner. Adjacent property owners may jointly agree on the establishment of a common landscaped area between their properties that meets such agreement and the planting and maintenance of the common area shall be binding upon both parties and their successors in interest, heirs, and their assigns.
- 10.10.8.1 Innovative landscape designs using "natural cluster of trees" rather than the required one (1) tree for every twelve (12) parking spaces may be approved by the Planning Commission if it is compatible with the character of the community and shown not to be a safety hazard.

**10.11 Buffer Zone Requirements.** All districts shall comply with the following minimum standards:

- 10.11.1 Where a business district abuts any part of a residential district, a buffer zone 10 feet wide shall be required; where an industrial district abuts any part of a residential or business zone, a buffer zone of 20 feet shall be required. The buffer shall run the entire length of the abutting lot line(s). The buffer shall run the entire length of the abutting lot line(s). Under no circumstances shall this buffer impair vehicular flow and shall be part of the yard requirements.



Buffer Requirements. Buffers shall be constructed of at least one of the following three (3) designs.

- a. Wall or Fence. If a wall or fence is provided as a protection buffer, it shall be six (6) feet high and of a construction and a design approved by the Planning Commission. Said wall or fence shall be maintained in good repair by the owners of the property.
- b. Screen planting strip. If a screen planting strip is provided as a protection buffer, it shall be at least then (10) feet in width, shall be planted with materials in sufficient density and of sufficient height (but in no case less than six (6) high at the time of planting) to afford protection to the residential or business district from the glare of lights, from blowing papers, dust and debris, from visual encroachment, and to effectively reduce the transmission of noise. Screen planting shall be maintained in a clean and neat condition and in such manner as to accomplish its purpose continually.
- c. Natural Forest. Natural undisturbed forest which provides a nearly impervious visual barrier due to the dense nature of the plants and/or trees. If this option is chosen, the width of the buffer one shall be twenty-five (25) feet in width and shall be included on the Site Plan. The Bay Minette City Planner shall determine whether the barrier is satisfactory via site inspection prior to landscape approval. Said buffer strip shall maintain its healthy condition as to accomplish its purpose continuously.

**10.12 Special Designs.** More stringent design and landscape standards may be required in any district if it is determined that the design would be more compatible with the development and more beneficial to the aesthetics of the City of Bay Minette.

## ARTICLE 11. PLANNED UNIT DEVELOPMENT (PUD)

The intent of this section is to provide an opportunity for the best use of land, protection of valuable natural features in the community, provide for, larger areas of recreational open space, more economical public services and opportunity for mixed use. The purpose of this provision is to encourage the unified development of tracts of land, much more creative and flexible concepts in site planning than would otherwise be possible through the strict application of minimum and maximum requirements of zoning districts established in this Zoning Ordinance.

For the purposes of this Ordinance, each Planned Unit Development shall be a minimum of 5 acres and of sufficient size to accommodate the development. The burden is placed on the developer to demonstrate a benefit to the City and the surrounding area.

Each Planned Unit Development shall have an Ordinance that establishes the development of regulations for the district. In approving a Planned Unit Development, the ordinance shall reference the site plan, which shall prescribe development standards. The site plan after approval shall become part of the amending ordinance. All development shall be in conformance with the approved Site Plan and development regulations.

### 11.1 Ownership.

Single ownership shall be construed to include the following:

- 11.1.1 A person, partnership or corporation.
- 11.1.2 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.
- 11.1.3 The owner's association of a condominium project, established under the provisions of Alabama law, which has the power to execute the agreements as provided for hereinafter.

### 11.2 General Regulations.

The following general regulations shall apply to all Planned Unit Developments and require that such developments:

- 11.2.1 Shall be in conformity with the City's Comprehensive Plan or portion thereof as it may apply.
- 11.2.2 Shall be consistent in all respects with the purposes and intent of this Ordinance.
- 11.2.3 Will advance the general welfare of the City and immediate vicinity.
- 11.2.4 Will provide, through desirable arrangement and design, benefits which justify the deviations from development standards which would otherwise apply.

### 11.3 General Development Regulations

The following development regulations shall apply to all Planned Unit Developments:

11.3.1 Provisions of residential districts as applicable shall generally be adhered to in all Planned Unit Developments.

11.3.2 All land proposed in the project for residential use, including outdoor use of space, off-street parking, interior drives and other circulation ways, may be counted in complying with the density requirements.

11.3.3 For any single-family or two-family dwelling or any dwelling unit in a townhouse or condominium building, there shall be a privately occupied area. This private space shall include the space occupied by such dwelling or dwelling unit, with adjoining open space assigned exclusively to such dwelling unit of not less than six hundred (600) square feet in addition to private parking area.

11.3.4 All open space not assigned to private occupancy as set forth above shall be assigned to the common use of all residents or general public of the development, with such use assured in perpetuity as provided for above. Assignment and development of such open spaces shall be as follows:

11.3.4.1 Access driveways.

11.3.4.2 Landscaped areas, comprising no less than fifteen (15) percent of all common open space required by this section, may include the following:

- a. Pedestrian access walkways.
- b. Children's play areas.
- c. General landscaped areas, flower gardens and areas for passive recreation.
- d. Swimming pools, including accompanying accessory structures, and areas for organized sports.
- e. Any other areas suitable for the common enjoyment of the residents.

11.3.4.3 Every residential structure in a development shall be within two hundred (200) feet of a hard-surfaced access drive no less than twenty (20) feet wide or a parking lot connected with such a drive. In addition, every dwelling or ground floor dwelling unit shall be directly accessible to service and emergency vehicles.

11.3.4.4 Private streets on common easements may be used to provide vehicular access to not more than thirty (30) dwelling units on any one such drive. In all other respects, the system of vehicular circulation for a development shall be provided by dedicated streets complying in all respects with the standards of the Subdivision Regulations;

the easement therefore may be counted as a part of the net area in complying with density limits, but may not be counted as a part of required landscape or recreation space.

**ARTICLE 12. EROSION AND SEDIMENT CONTROL**

**12.1 Erosion and Sediment Control:** 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. In addition, owners shall comply with all applicable laws, rules and regulations, including federal and state regulations regarding the discharge of storm water. For all projects required by the Alabama Department of Environmental Management ("ADEM") to obtain a national pollutant discharge elimination system ("NPDES") permit, a copy of said permit shall be provided to the City Planner and Building Official prior to the land disturbance activities. For projects requiring a NPDES permit, owners shall prepare a Construction Best Management Practices Plan ("CBMPP") in accordance with ADEM requirements. It shall be the responsibility of the owner to design, install and maintain an ADEM approved CBNPP. Where required by ADEM, owners shall provide the City Planner and Building Official with a copy of its CBMPP prior to land disturbance activities.

**ARTICLE 13. ADMINISTRATION, ENFORCEMENT AND PENALTIES****13.1 Administration, Interpretation and Enforcement**

- 13.1.1 The duty of the zoning administrator to administer and enforce the provisions of these zoning ordinances is hereby conferred upon the City Planner and their designee. This includes receiving applications, inspecting sites, and issuing land use certificates for projects, uses and structures which are in conformance with the provisions of these zoning ordinances.
- 13.1.2 The City Planner shall keep records of all permits and certificates issued and maps, plats and other documents with notations of all special conditions involved. They shall file and safely keep copies of all sketches and plans submitted, and the same shall form a part of the records of their office and shall be made as a public record.
- 13.1.3 Where the exact location of a boundary cannot be determined, the City Planner shall interpret the map and render a decision. Any such decision may be appealed to the Board of Adjustment.
- 13.1.4 In any case where a requested use is not specifically provided, the City Planner shall determine the appropriate zoning classification by reference to the most clearly analogous use or uses that are specifically provided.

**13.2 Land Use Certificates**

- 13.2.1 Authorization. A Land Use Certificate shall be obtained from the Planning & Community Development Services Office prior to the commencement of development and issuance of a building permit including electrical, HVAC and plumbing permits. A Land Use Certificate shall be required for all new construction, including accessory structures; a change of occupancy; and renovations/alterations, except for minor changes or repairs not regulated by these ordinances.
- 13.2.2 Application Procedure
- a. The City Planner shall receive the application for a Land Use Certificate upon jurisdictional determination and determination that it complies with all submission requirements.
  - b. Where appropriate, the City Planner shall circulate the application to the Building Official, Fire Inspector, Code Enforcement Officer or others as deemed necessary, for review and comment.
  - c. The Land Use Certificate shall be issued or denied within seven (7) business days of receipt of a complete application, otherwise it shall be deemed to be approved.
- 13.2.3 Application Submittal
- a. Application Form. The Land Use Certificate shall be on a form provided by the City Planner.
  - b. Plans and Specifications. Each application for a land use certificate shall be accompanied by an accurate site plan drawn to scale showing at a minimum: the actual shape, dimensions and

size of the lot to be built upon; the size, shape, height, floor area and location of the buildings to be erected; dimensions and locations of existing structures; width of front, side and rear yards; existing and proposed parking; ingress to and egress from the site; and such other information as may be reasonably requested to determine compliance with these zoning ordinances including but not limited to a landscaping plan, erosion control plan, stormwater management plan and utilities plan.

- c. Application Fee. The applicant for a land use certificate shall be required to pay an application fee according to the current schedule of fees established by the City Council of Bay Minette. This fee shall be nonrefundable irrespective of the final outcome of the application.

13.2.4 Conditions and restrictions on approval. A land use certificate shall be valid for the issuance of a building permit for 180 days after issuance. After that time, a new land use certificate shall be obtained. A record of the application and site plan shall be kept in the files of the City Planner for a period of not less than 3 years.

13.2.5 Revocation of a Land Use Certificate. The City Planner 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 site 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 these Zoning Ordinances. Revocation of the land use certificate shall also cause suspension of the building permit until such times as in the judgement of the City Planner, the applicant is in compliance with the requirements of these Zoning Ordinances.

13.2.6 Right of Appeal. The applicant may appeal the denial of the land use certificate to the Board of Adjustment in writing within twenty (20) calendar days after the rejection of the application.

### 13.3 Building Permit Required

It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures or to store building materials or erect temporary field offices, or to commence the moving, alteration, or repair (except repairs not changing the character of the structure and not exceeding \$500 in cost, or painting or wallpapering) of any structure, including accessory structures, until the City Planner and Building Official of the City has issued for such work a Land Use Application and building permit including a statement that the plans, specifications and intended use of such structure in all respects conform with the provisions of this ordinance. Application for a Land Use Application and building permit shall be made to the City Planner and Building Official on forms provided for that purpose.

Any building permit issued shall become invalid unless the work authorized by it shall have been commenced within one (1) year of its date of issue, or if the work authorized by it is suspended or abandoned for a period of one (1) year.

### 13.4 Approval of Plans and Issuance of Permit

It shall be unlawful for the City Planner or Building Official to approve any plans or issue a building permit for any excavation or construction until they have inspected such plans in detail and found them in conformity with this ordinance. To this end, the City Planner or Building Official 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 the following in sufficient detail to ascertain whether the proposed excavation, construction, use of land, moving or alteration is in conformance with this ordinance:

- a. The actual shape, proportions and dimensions of the lot to be built upon.
- b. The shape, size and location of all buildings or other structures to be erected, altered or moved and of any buildings or other structures already existing on the lot.
- c. The existing and intended use of all such buildings or other structures.
- d. The setback and side lines of buildings on adjoining lots and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being met.

If the proposed excavation, construction, moving or alteration as set forth in the application are in conformity with the provisions of this ordinance, the City 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.

### 13.5 Penalties

Any person in violation of any provision of this ordinance shall be fined upon conviction not less than two dollars (\$2.00) or more than five hundred dollars (\$500.00) and costs of court for each offense. Each day such violation continues shall constitute a separate offense.

### 13.6 Remedies

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



**ARTICLE 14. REVIEW BODIES****14.1 City Council**

The City Council shall exercise all final legislative authority over zoning matters as provided in this ordinance.

**14.2 Planning Commission**

*14.2.1 Establishment and Authority:* The Planning Commission of the City of Bay Minette is established according to Title 11, Chapter 52 of the Code of Alabama (1975), as amended. The Planning Commission shall exercise the authority granted by the Code of Alabama, the City Code, and the Zoning Ordinance.

*14.2.2 Memberships.*

*14.2.2.1* The commission shall consist of nine members having the following qualifications:

- a. A member of the city council, to be selected by it upon the recommendation of the Mayor;
- b. The mayor;
- c. An administrative official of the city, appointed by the mayor;
- d. Six members, appointed by the mayor, who shall reside in the City of Bay Minette, Alabama who hold no other public office in the City of Bay Minette;
- e. This subsection is intended to comply with the terms of Chapter 52 of Title 11 of the Code of Alabama (1975), as amended, with respect to the members of the Planning Commission. To the extent those terms are altered, amended, replaced or otherwise changed, this subsection shall be construed so as to apply with such altered, amended, replaced or changed terms.

*14.2.2.2* The mayor, the city councilperson, and the city administrative official shall be ex-officio members of the commission having full privilege of participation in the business of the commission, including voting privileges. Their terms shall correspond to their respective official tenures except that the terms of the administrative official selected by mayor shall terminate with the term of the selecting mayor.

*14.2.2.3* All members shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties. All members shall be provided with relevant information outlining conflict of interest laws.

*14.2.2.4* The terms of the six members shall be in accordance with the applicable law; provided; however, that nothing in this zoning ordinance shall be construed so as to shorten the term of any current citizen appointee.

14.2.2.5 Any vacancy on the commission shall be filled for the un-expired term by the Mayor in the case of members appointed by the Mayor or by the council in the case of a member selected by the council. Members appointed by the Mayor may be removed by the Mayor and the member appointed by the council may be removed by the council for inefficiency, neglect of duty or malfeasance in office after a public hearing held pursuant to written charges.

14.2.3 *Rules of Procedure:* The Planning Commission shall establish bylaws under which to operate as provided by law.

14.2.4 *Duties and Powers Under Zoning Ordinance:* The Planning Commission shall have the following powers and duties under the Zoning Ordinance:

- a. The Planning Commission is charged with the responsibility to review, apply and monitor the enforcement of this ordinance in accordance with the adopted comprehensive plan or portions thereof which are adopted.
- b. The Planning Commission shall hear and take action on matters which require commission "approval" as herein specified and shall render decisions on uses not provided for in the Table of Permitted Uses.
- c. The Planning Commission shall hear and recommend to the City Council on all matters of zoning and rezoning and zoning of newly annexed land when R-1 is determined by the Planning Commission not to be the proper zone.
- d. The Planning Commission shall hear and recommend to the Board of Adjustment on all requests for special exceptions and variances.
- e. Requests before the Planning Commission shall adhere to the requirements specified herein and as may be established by the commission for the lawful rendering of its duty.

### 14.3 City Planner

The City Planner shall be the municipal zoning administrator whose duties shall be as follows:

14.3.1 The City Planner or their designee is authorized and empowered on behalf and in the name of the council to administer and enforce the provisions of this ordinance including:

- a. Receive applications;
- b. Inspect premises, and issue certificates of zoning compliance for uses and structures which are in conformance with the provisions of this ordinance;
- c. Interpret the meaning of the ordinance in the course of enforcement;

- d. Propose zoning amendments as provided in this ordinance; and,
- e. Advise the Planning Commission and City Council on implementation of the Comprehensive Plan.

14.3.2 The City Planner shall keep records of all land use certificates issued, maps, plats and other documents with notations of all special conditions involved. They shall file and safely keep copies of all sketches and plans submitted, and the same shall form a part of the records of their office and shall be public record.

#### 14.4 Establishment and Membership of the Board of Adjustment

The Board of Adjustment shall consist of five (5) members, appointed by the Mayor for overlapping terms of three (3) years. All members of the Board of Adjustment shall reside within the municipal limits of the City of Bay Minette. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall be removed for cause by the Mayor upon written charges and after public hearing thereon. The Mayor shall appoint two (2) supernumerary members in accordance with *Alabama Code*, Section 11-52-80.

##### 14.4.1 Meetings, Procedures and Records.

14.4.1.1 Meetings of the Board shall be held at the call of the Chairman and at such other times as a majority of the Board may determine. The members of the Board of Adjustment shall elect one of its members as chairman to serve a one (1) year term or until re-elected or a successor is elected. Such Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Four (4) members shall constitute a quorum.

14.4.1.2 The Board shall adopt and publish its own rules of procedure and keep minutes of its proceedings, showing the vote of each member upon each questions, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and of other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

14.4.2 *Powers and Duties.* The Board of Adjustment shall have the following powers and duties:

14.4.2.1 *Appeals.* To 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 article or of any ordinance adopted pursuant thereto.

- a. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, 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.

- b. The officer from whom the appeal is taken shall transmit forthwith to the Board all papers constituting the record upon which the action appealed was taken. An appeal stays all proceedings unless the officer, from whom the appeal is taken, certifies to the Board of Adjustment that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property.
- c. When such certificate is filed, proceedings shall not be stayed except by restraining order which may be granted by the Board of Adjustment or by a court of competent jurisdiction.
- d. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

14.4.2.2 *Special Exceptions: Conditions Governing Applications; Procedures.* To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this ordinance; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this ordinance. A special exception shall not be granted by the Board of Adjustment unless and until:

- a. A written application for a special exception is submitted indicating the section of this ordinance under which the special exception is sought and stating the grounds on which it is requested. The application shall be submitted no less than thirty (30) days prior to the Planning Commission meeting at which it is to be reviewed. The application shall be considered by the Planning Commission, which shall make a recommendation to the Board of Adjustment with regard to approval, approval with conditions or disapproval. A public hearing shall not be required before the Planning Commission. The Planning Commission's recommendation is not binding on the Board of Adjustment, it is merely advisory;
- b. Upon receipt of a recommendation from the Planning Commission, the Board of Adjustment shall schedule a meeting at which to consider the application and shall give notice at least 15 days in advance of a public hearing. The owner, or his agent, of the property for which special exception is sought, adjacent property owners and any other party's identified that may have interest in the special exception request, shall be notified by registered/certified mail. Notice of such hearings shall be posted on the property for which special exception is sought, at the City Hall, and in one public place at least 15 days prior to the public hearing;

- c. The public hearing shall be held at the date and time designated in the notice. Any party may appear in person, or by agent or attorney.
- d. The Board of Adjustment shall make a finding that is empowered under the section of this ordinance described in the application to grant the special exception, and the granting of the special exception will not adversely affect the public interest.
- e. The Board shall review requests for special exceptions under the following criteria and relief granted only upon the concurring vote of four Board members:
  - 1) Compliance with the Comprehensive Plan;
  - 2) Compliance with any other approved planning document;
  - 3) Compliance with the standards, goals, and intent of this ordinance;
  - 4) The character of the surrounding property, including any pending development activity;
  - 5) Adequacy of public infrastructure to support the proposed development;
  - 6) Impacts on natural resources, including existing conditions and ongoing post-development conditions;
  - 7) Compliance with other laws and regulations of the City;
  - 8) Compliance with other applicable laws and regulations of other jurisdictions;
  - 9) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values;
  - 10) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.
  - 11) Overall benefit to the community;
  - 12) Compliance with sound planning principles;
  - 13) Compliance with the terms and conditions of any zoning approval; and
  - 14) Any other matter relating to the health, safety, and welfare of the community.

14.4.2.3 *Variances; Conditions Governing Applications; Procedures.* To authorize upon

request in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

- a. A written application for a variance is submitted demonstrating:
  - 1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or other buildings in the same district;
  - 2) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
  - 3) That the special conditions and circumstances do not result from the actions of the applicant;
  - 4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
  - 5) No non-conforming use of neighboring lands, structures, or buildings in the same district, and no prohibited/permitted or non-conforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
- b. The application shall be submitted no less than thirty (30) days prior to the Planning Commission meeting at which it is to be reviewed. The application shall be considered by the Planning Commission, which shall make a recommendation to the Board of Adjustment with regard to approval, approval with conditions or disapproval. A public hearing shall not be required before the Planning Commission. The Planning Commission's recommendation is not binding on the Board of Adjustment, it is merely advisory.
- c. Upon receipt of a recommendation from the Planning Commission notice of public hearing shall be given as in *Section 14.4.2.2.b* above;
- d. The public hearing shall be held as scheduled. Any party may appear in person, or by agent or by attorney;
- e. The Board of Adjustment shall make findings that the requirements of *Section 14.4.2.3.a* have been met by the applicant prior to granting a variance;
- f. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the

variance is the minimum variance that will make possible the reasonable use of the land, building or structure;

- g. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 11.4 of this ordinance.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

Board has Powers of Administrative Official on Appeals; Reversing Decision of Administrative Official. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of administrative official from whom the appeal is taken.

The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

- h. Limitation on resubmission. An application for the same parcel of land shall not be submitted within 365 days of the final decision of the Board of Adjustment. Any application may be withdrawn without prejudice prior to the opening of the hearing by the Board of Adjustment. All notices to withdraw shall be submitted in writing.

#### 14.5 Appeals From Action of the Board of Adjustment

Any party aggrieved by any final judgment or decision of the Board of Adjustment may, within fifteen days thereafter, appeal therefrom to the circuit court or court of like jurisdiction, by filing with the Board a written notice of appeal specifying the judgment or decision from which appeal is taken. In case of

such appeal, the Board shall cause a transcript of the proceedings in the cause to be certified to the court to which the appeal is taken and the cause in such court be tried de novo.



**ARTICLE 15. AMENDMENT****15.1 Procedure**

The regulations and the number, area and boundaries of districts established by this ordinance may be amended, supplemented, changed, modified or repealed by the municipal governing body, but no amendment shall become effective unless it is first submitted to the City Planning Commission for its recommendation. The City Planning Commission, upon its own initiative, shall hold public hearings, public notice of which shall be given, for the consideration of any proposed amendment to the provisions of this ordinance or to the Zoning Map and report its recommendation to the municipal governing body. The provisions of Title 11, Chapter 52, Article 4, Sections 77 and 78, Code of Alabama, 1975, as the same may be amended, shall apply to all changes and amendments.

**15.2 Procedure for Requesting a Zoning Amendment.**

Any request for rezoning shall be treated in accordance with the following procedures:

- 15.2.1 An application must be submitted in writing to the zoning enforcement office at thirty (30) days prior to the regularly scheduled meeting of the Bay Minette Planning Commission and a site plan of the proposed use included in any petition for a zoning amendment. The use shown on the site plan shall be binding to the application for rezoning. Any deviation from the use shown on the site plan shall require approved by the Planning Commission and City Council. Such site plan shall include the existing land use on adjacent and surrounding properties. Payment of all necessary fees is due at this time. See 15.6 for fee schedule.
- 15.2.2 The application shall be reviewed by the Planning Commission at its next regular meeting. The Planning Commission shall take action and forward an advisory recommendation to the City Council.
- 15.2.3 Before enacting any amendment to this ordinance, a public hearing thereon shall be held by the City Council with proper notice as required by law. Said notice stating the date, time and location of the public hearing shall be published in full for one insertion and an additional insertion of a synopsis of the proposed amendment one week after the first insertion in a newspaper of general circulation published in the municipality, both insertions shall be at least fifteen (15) days prior to the said public hearing; or, if no newspaper is published in the municipality, then said notice shall be posted in four (4) conspicuous places within the municipality at least fifteen (15) days prior to the said public hearing. The applicant shall furnish the City the names and mailing addresses of all persons owning property within 100 feet of any specific property that is the subject of the application. Names and addresses shall be from the latest records of the county revenue office and accuracy of the list shall be the applicant's responsibility. Where land within 100 feet involves leasehold property, the names and addresses of the landowner and the leasehold improvements shall be provided to the City. Said notices shall be mailed at least fifteen (15) days prior to the public hearing. Due notice shall also be posted on the property which is the subject of the application and given to the parties in interest of the date, time and place of said hearing.

15.2.4 Said public hearing shall be held at the earliest possible time to consider the proposed zoning amendment, and the council shall take action on said proposed zoning amendment within forty-five (45) days from the date of the public hearing except in the case where the tentative action is not in accordance with the Planning Commission's certified recommendation. In such case, the council shall not make any change in or departure from the text or maps, as recommended for approval and certified by the Planning Commission, unless such change or departure be first resubmitted to the commission for an additional review and recommendation.

15.2.5 *Criteria* – The application shall be reviewed based on the following criteria:

- a. Compliance with the Comprehensive Plan;
- b. Compliance with the standards, goals, and intent of this ordinance;
- c. The character of the surrounding property, including any pending development activity;
- d. Adequacy of public infrastructure to support the proposed development;
- e. Impacts on natural resources, including existing conditions and ongoing post-development conditions;
- f. Compliance with other laws and regulations of the City;
- g. Compliance with other applicable laws and regulations of other jurisdictions;
- h. Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values; and,
- i. Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.

15.2.6 Limitation on resubmittal. No application for a zoning map amendment shall be considered within 365 days from a final decision on a previous application for the same or similar parcel of land. An application may be withdrawn without prejudice prior to the public hearing being open by the city council. A request to withdraw an application shall be made in writing.

### 15.3 Continuation of Previously Issued Permits.

All permits which were previously issued shall not be affected by the provisions of this ordinance, except as otherwise provided herein.

### 15.4 Procedure for Zoning Newly Annexed Land.

Any unzoned land annexed to the City of Bay Minette hereafter shall automatically be classified R-1; except that, the City Council may consider, after due process of publication and hearing as required by law, specific applications to zone newly annexed land into one or more existing or proposed new zoning classifications.

### 15.5 Penalties and Remedies.

15.5.1 Penalties. Any person violating any provision of this ordinance shall be fined upon conviction,

not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) and costs of court for each offense. Each day such violation continues shall constitute a separate offense.

15.5.2 Remedies. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure or land is or is proposed to be used in violation of this ordinance, the building inspector, legal officer, or other appropriate authority or any adjacent or neighboring property owner who would be specially damaged by such violation may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate such violation; or to prevent the occupancy of said building, structure, or land. Each and every day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues shall be deemed as separate offense and shall be subject to the fines and penalties specified.

## 15.6 Fees

Fees for applications to the Planning Commission and Board of Adjustment are in accordance with the current schedule of fees established by the City Council of Bay Minette. These fees shall be nonrefundable irrespective of the final outcome of the application.

## ARTICLE 16. SIGNS

### 16.1 Purpose and Scope

The provisions of this section, furthering the purpose stated in *Article 1*, shall govern the location, size, setback, height, and other standards of signs in each of the use districts established in this ordinance in order to insure safe construction, light, air, and open space, to reduce hazards at intersections, to promote public safety by eliminating confusing, distracting and unsafe signs, to prevent the accumulation of trash, to protect property values of the entire community, and to encourage a positive visual environment in harmony with the natural beauty of Bay Minette. These regulations shall apply to all signs erected, constructed, displayed, painted, maintained, altered, and/or installed in every zoning district in the City, which are designed or intended to be seen by or attract the attention of the public. No sign shall be erected or installed unless it is in compliance with the regulations of this Article. It is the intent of this Article to:

- a. Set standards and provide controls that permit reasonable use of signs and enhance the character of the City.
- b. Support and promote the use of signs to aid the public in the identification of businesses and other activities, to assist the public in its orientation within the City, to express the history and character of the City, to promote the community's ability to attract sources of economic development and growth, and to serve other informational purposes.
- c. Avoid excessive competition for large or multiple signs, so that permitted signs provide identification and direction while minimizing clutter, unsightliness, confusion, and hazardous distractions to motorists.
- d. Protect the public from the danger of unsafe signs, and from the degradation of the aesthetic qualities of the City.
- e. Encourage sign design that builds on the traditional town image and visual environment the City of Bay Minette seeks to promote.

### 16.2 Definitions

*Banner.* Any sign of lightweight fabric or similar material that is mounted to a pole or a building at one (1) or more edges.

*Billboard.* An off-premises or off-site sign advertising an establishment, merchandise, product, service, or entertainment which is not sold, provided, manufactured, or furnished on the property on which said sign is located.

*Building Frontage.* See "Main or Entry Façade" definition.

*Changeable Copy /Reader Board.* A non-electric sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face of the surface of the sign.

*Building Sign.* A sign displayed upon or attached to any part of the exterior of a building, including walls, doors, parapets, and marquees. Canopy signs, awning signs, projecting signs, and signs suspended from buildings are considered types of building signs.

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

*Construction/Development.* Any sign, of temporary nature, used at the entrance of a lot, that indicates the name of principal contractors, developers, architects, and/or lending institutions responsible for activities on the premises during construction.

*Development Sign.* Any sign, of a temporary nature, used at the entrance to a subdivision, office park, or similar development that indicates lots being sold, the name of the developer, financial institution or other development parties.

*Display Area.* The area of a sign or advertising device that can be enclosed or measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire sign or advertising device; excluding trim, frame, apron, posts, uprights, braces or other structural members which support it, (See Section 16.6.3 - Calculation of Display Area).

*Electronic message board.* A sign displaying a changing message, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

*Erect.* To construct, reconstruct, build, relocate, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish a sign. It shall not include any of the foregoing activities when performed as an incident to change a message on a reader board, or to maintain the sign.

*Freestanding Sign.* Any sign supported by structures or supports that are placed on, or anchored in the ground and that are independent from any building or other structure. The posts or other supporting structures shall be considered as part of the sign, except that they shall not be included in computing the sign display area.

*General Business Sign.* Freestanding sign on any individual development site.

*Flashing/ intermittent illuminating.* Signs which contain intermittent illumination and the change occurs more than twelve (12) times per hour. Time and temperature announcements, excluding other advertising copy, are not deemed to be flashing or intermittent illuminating signs.

*Legal Non-Conforming.* One ground-mounted sign located within the City limits prior to the enactment of the Zoning Ordinance or located on property prior to its annexation, on premises which otherwise meets the performance requirements as stated in Section 16.8. Billboards, portable signs, off-premises signs, temporary signs and all signs prohibited in Section 10.74 are excluded from being legal non-conforming signs.

*Main or Entry Façade.* Generally the façade or side of the building that faces the public street, road or highway. In cases where the building is oriented in a manner not parallel to the street, the primary entrance façade is used as the main façade.

*Marquee.* Any sign mounted to extend vertically below a marquee or canopy.

*Menu Board.* A permanent sign, which is not designed or located so as to be legible from any public right-of-way, depicting products that can be purchased on site, and is part of a drive-through service (i.e. fast food restaurants).

*Noncommercial Sign.* A sign which is not an on-premise or off-premise commercial sign and which carries no message, statement, or expression related to the commercial interests of the sign owner, lessee, author or other person responsible for the sign message. Noncommercial signs include but are not limited to: signs expressing political views, religious views or signs of non-profit organizations related to their tax-exempt purposes.

*Off-premise.* A billboard or other sign relating its subject matter or any portion thereof to a premises other than the premises on which said sign is located.

*On-premise.* A sign relating its subject matter to the premises on which said sign is located.

*Open Letter Sign.* A sign consisting of a logo or symbol, individual letters or connected lettering mounted on a building in a raceway or similar mounting or on the surface of an integral architectural element, which is a part of the building. Individual letters may be illuminated. The display area of an open letter sign shall not exceed the maximum permitted area for building signs on the property, (See *Section 16.6.3 "Calculation of Display Area"*).

*Painted Graphics.* Any mosaic, mural, painting, graphic art technique, or combination thereof placed on a wall and containing no copy, advertising symbols, lettering, trademarks, or other references to the premises or products and/or services offered for sale on the premises.

*Pole Sign.* A freestanding sign that is affixed, attached, or erected on a pole that is not itself an integral part of or attached to a building or structure.

*Permanent.* A sign permanently affixed to a building or the ground.

*Political Sign.* A sign identifying and urging voter support for or in opposition to a particular issue, political party, or candidate for public office.

*Portable Sign.* Any sign not permanently attached to the ground or other permanent structure, or designed to be transported. Except as otherwise permitted, this includes signs on wheels and temporary metal/cardboard/plastic/wood signs inserted in the ground containing a commercial message other than real estate signs.

*Real Estate Sign.* A sign which advertises the sale, rental inspection, or development of the premises upon which it is located.

*Sandwich Board Sign.* Any A-frame or T-frame sign, double or single faced, which is portable and may readily be moved.

*Subdivision Identification Marker.* A sign marking an entrance into a residential subdivision, office park, or industrial park.

*Temporary Sign.* A sign designed for a seasonal or brief activity and intended to be displayed for a short period of time, not to exceed thirty (30) calendar days per year. This includes sales, specials, promotions, holidays, auctions, and business grand openings. Symbols, figures, balloons, and similar items shall be considered a temporary sign.

*Vehicle.* Any sign affixed to a vehicle.

*Wall/Building Sign.* A sign attached to or erected against the wall of a building with the face parallel to the plane of the building wall.

*Wind Sign.* Any sign, pennants, flags (other than official flags), ribbons, spinners, streamers, captive balloons or inflatable figures, or other objects or materials fastened in such a manner as to move upon being subjected to pressure by wind and drawing attention to a business, product, service, or activity whether it contains a message or not.

*Window Sign.* Any sign, picture, symbol, or combination thereof designed to communicate information about a business, commodity, event sale, or service for the location on which it is located, that is placed inside or upon a window and is visible from the exterior of the window.

### 16.3 Exempt Signs.

Exempt signs are allowed without a sign permit and are not to be included in determinations of the allowable numbers, type, and area of signs that require a sign permit. Signs exempted in this Section must be erected in accordance with the structural and safety requirements of the current building codes and shall not be placed or constructed so as to create a hazard of any kind.

*16.3.1 Address Numbers.* Address numbers used for the purposes of identifying the E-911 address of a residential or non-residential property are exempt providing they are not part of a building or freestanding sign with other commercial or non-commercial messages or images. An address shown as part of a building or wall sign on a non-residential property shall be counted toward the maximum allowable display area. Incidental signs on residential property identifying the house number, street name and resident's name are also exempt.

*16.3.2 Banners.*

- a. *Non-commercial Banners.* Banners may be utilized for special community events open to the general public and sponsored by non-commercial civic, charitable, community, or similar organizations provided:

At least five business days before signs are to be posted, a designated representative of the sponsoring group shall provide a sign installation and removal plan for review by the City Official, who shall grant written permission for signs to be posted if the following standards are met:

1. Signs or banners shall be located outside of the public right-of-way of any public street and outside of the sight distance triangle of any intersection.
2. Signs or banners may be posted up to fourteen (14) days before the event and must be removed within three (3) days following the event.
3. No more than one banner shall be permitted per lot or premises, and in no case shall any banner or sign be located closer than 200 feet from another such sign on the same side of the street.
4. Nothing in this provision shall be construed to authorize the posting of such signs or banners upon trees, utility poles, traffic control signs, lights or devices in any place or manner prohibited by the provisions herein, nor on private property without written consent of the owner.

- b. *Commercial Banners.* (See Permitted Signs)

16.3.3 *Community Event Displays.* Temporary decorations, and/or non-commercial signs associated with school activities, school elections, celebrations or commemorations that have significance to the entire community. All displays shall be removed within seven (7) days of the event's completion.

16.3.4 *Construction Signs.* Signs used to identify contractors, financial institutions or developers on a site under construction or undergoing modification. Signs are limited to two (2) signs per site and thirty-two square feet in size each. All construction signs shall be removed within 14 days after the Certificate of Occupancy has been issued. In the case of minor modifications not requiring a certificate of occupancy, i.e. tree removal, painting, landscaping, signs are limited to a display period of 30 days. Routine lawn/landscape maintenance is not considered construction activity.

16.3.5 *Development Signs.* Signs used at the entrance to subdivision, office park, or similar development that indicates lots for sale, the name of the developer, financial institution or other development parties. Signs are limited to 32 square feet in size and no more than one sign per development entrance. Signs are to be removed when the original developer sells all lots in the development or phase.



- 16.3.6 *Directional Signs.* A sign that is designed and erected solely for the purpose of traffic or pedestrian direction and placed on the property for which its use is intended. No such sign shall display the name of a product, establishment, service or any other advertising other than a logo. Signs identifying public telephones, trash receptacles, first aid facilities, and shopping cart corrals are considered directional signs. No directional sign shall exceed five (5) square feet.
- 16.3.7 *Directory Signs.* A wall-mounted sign, which is not designed or located so as to be legible from any street or adjoining property, listing the businesses, tenants, or activities conducted within a building or group of buildings. Directory signs are limited to one per building and shall not exceed 20 square feet in size.
- 16.3.8 *Hazard/Prohibition/Warning Signs.* Signs warning of construction, excavation, or similar hazards. Signs such as "No Trespassing" and "No Parking" as long as they do not contain logos or text advertising a commercial product or activity.
- 16.3.9 *Help Wanted Signs.* Signs advertising job vacancies for employment opportunities with the business or activity on the property on which the sign is located. Signs are limited to six (6) square feet in size and only one (1) sign shall be allowed per business.
- 16.3.10 *Historic District Celebration Signs.* Signs mounted to light poles or similar upright structures in historic Bay Minette, depicting historic district events or activities and containing no commercial message. Said signs shall be mounted in such a manner that a minimum of eight (8) feet of vertical clearance is provided, and line of sight at intersections and/or driveways entering the roadway is provided.
- 16.3.11 *Holiday Decorations.* Temporary holiday decorations used to celebrate a single holiday or season.
- 16.3.12 *Internal Signs.* Signs not intended to be viewed from public right-of-way and located not to be visible from public right-of-way or adjacent properties, such as signs interior to a shopping center, commercial buildings and structures, ball parks, stadiums and similar uses of a recreational or entertainment nature.
- 16.3.13 *Menu Boards.* A permanent sign, which is not designed or located so as to be legible from any public right-of-way, depicting products that can be purchased on site (i.e. fast food restaurants) such as a drive-through menu service.
- 16.3.14 *Nameplates.* A non-electrical sign identifying only the name and occupation or profession of the occupant of a non-residential property on which the sign is located. A nameplate shall not exceed two (2) square feet in size.
- 16.3.15 *Official Signs.* Official federal, state or local government traffic, directional and informational signs and notices issued by any court, person, or officer in performance of a public duty. Also, any sign erected by a federal, state, or local government agency for identification purposes at any office, institutional, recreational, historical or other publicly owned or recognized site.
- 16.3.16 *Official Flags.* Official federal, state, or local government flags. Also, any flags or insignia of a religious, charitable, fraternal, academic, corporate or civic organization shall be allowed as well. Official flags must be flown in a manner that meets U.S. Congressional protocol. Failure to display flags in this manner will be a violation of this Ordinance.

16.3.17 *Political Signs.* Political signs are subject to the following requirements:

- a. Political signs shall not be erected earlier than sixty (60) days prior to the primary election date and must be removed within seven (7) days after the election. In the event of a run-off election, the signs of the run-off candidates may be maintained until the date of the run-off election and must be removed within seven (7) days after the official election date. However, signs belonging to successful primary candidates may remain in place for the general election and must be removed within seven (7) days after the official election date.
- b. Political signs are limited in size to no more than thirty-two (32) square feet.
- c. Such signs are confined wholly to placement on private property.
- d. Pursuant to Section 21-3-6 of the *Code of Alabama*, it is unlawful to erect or display political signs on any property owned or controlled by the City of Bay Minette or on School Board property. This shall include public rights-of-way, trees, light poles, sidewalks, streets, benches, fire hydrants, public parks or playgrounds, libraries, fire stations, City Hall, and schools.
- e. The regulations of this section do not prohibit the purchase of advertising space on permitted advertising signs in addition to the signs permitted by this section.
- f. 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 regulation. Candidates will be held responsible for violations.

16.3.18 *Real Estate Signs.*

- a. *For Sale Signs.* Temporary signs indicating the property on which the sign is located is for sale, rent or lease. Only one (1) sign is permitted to face each street adjacent to the property.

<b>Maximum allowable sign display area for real estate signs:</b>	
Residential	6 Sq. Feet each, or a maximum of 12 Sq. feet
Non-Residential	32 Sq. Feet
<b><i>NOTE: All real estate signs shall be located only on the property that is for sale, lease or rent.</i></b>	

- b. *Model Homes/Open House.* Temporary signs attracting attention to a model home, and open house viewing provided that the aggregate area of such signage is not to exceed 32 square feet.
- c. *Off-Premise Real Estate "For Sale", "For Rent", etc.* or locator signs are allowed on consecutive days from the hours of 4:00 p.m. Friday thru 10:00 a.m. Monday. No such

sign shall be located in any public right-of-way. Any such sign posted outside of the hours designated above shall be removed and immediately disposed of by the City of Bay Minette.

- 16.3.19 *Sandwich board or similar style signs.* No more than two, 24" x 48" sandwich board-type signs displaying menu, pricing or other similar information are allowed. The signs may be displayed on the premises only during business hours and shall not obstruct or impede pedestrian or vehicular traffic. Electronic or illuminated signs are not allowed.
- 16.3.20 *Vehicle Sign.* Any sign attached to a vehicle or trailer that is used in the normal day to day operation of the business advertised on the vehicle. The primary use of any vehicle or trailer, which contains a vehicle sign, must be to serve a useful function in the transportation or conveyance of persons or commodities from one place to another, including transportation to and from work. A vehicle or trailer primarily used for advertising shall not be considered a vehicle or trailer used in the conduct of business and is prohibited.
- 16.3.21 *Window Sign.* Any sign located on the inside or outside of a window and is visible from the street or adjoining properties. Signs must contain a message related to a business, profession, or activity conducted, or to a commodity or service sold or offered, upon the premises where such sign is located and shall not occupy more than 25% of the glass area.

#### 16.4 Prohibited Signs.

It shall be unlawful to erect, cause to be erected, maintain or cause to be maintained, any sign not expressly authorized by, or exempted from, these regulations. The signs listed below are expressly prohibited in the City of Bay Minette:

- a. Signs that are in violation of the building code or electrical code adopted by the City of Bay Minette.
- b. Portable signs.
- c. Off-Premise signs.
- d. Flags on commercial property other than official flags.
- e. Inflatable signs and tethered balloons.
- f. A sign that, in the opinion of the Building Official, does or may constitute a safety hazard.
- g. Any sign which simulates or imitates in size, color, lettering or design any traffic sign or signal, or which makes use of words, symbols or characters in such a manner to interfere with, mislead or confuse pedestrian or vehicular traffic.
- h. Any signs, other than official traffic control devices, highway identification markers, warning signs, and other official signs, which are erected within the right-of-way of any street or alley. Any sign that is erected or maintained outside the right-of-way and obstructs the vision of pedestrians, cyclists, or motorists traveling on or entering a street, road, or highway.
- i. Freestanding signs which project into the public right-of-way.

- j. Signs consisting of any moving, rotating, flashing, or otherwise animated light or component, except for time and temperature displays and traditional barber poles.
- k. Any sign or sign structure identifying a previous use or activity that has not occupied the site for a period greater than sixty (60) days, does not maintain a current business license or pertains to a time, event or purpose which no longer applies, shall be deemed abandoned. The removal of a frame of an abandoned sign shall not be required, if it conforms to all applicable terms contained in these regulations (including the sign face area for sign replacement yielded by such frame).

Any sign structure, which supported or supports an abandoned sign and which structure conforms to all applicable terms contained in these regulations shall be allowed to remain in place. However, in the event a sign structure which supported or supports an abandoned sign is inconsistent with any term contained in these regulations (including the sign face area for sign replacement yielded by the frame), then the sign structure and frame shall be either altered to comply with the terms contained herein or removed by the owner of such structure or property
- l. Strips or strings of lights outlining property lines, sales area, rooflines, doors, windows, wall edges or other architectural features of a building. This prohibition does not include holiday decorations and community decorations. This prohibition does not include neon lighting on buildings. If neon is used to depict wording or logos, it will be calculated as part of the overall allowable signage.
- m. Signs on public land, other than those erected at the direction or with the permission of a public authority.
- n. Signs that emit audible sound, odor, visible matter such as smoke or steam, or involve the use of live animals.
- o. Signs or sign structures that interfere in any way with free use of any fire escape, emergency exit, or standpipes, or that obstruct any window to such an extent that light or ventilation is reduced to a point below that required by any provision of these regulations or any other regulation of the City of Bay Minette.
- p. Signs that are of such intensity or brilliance as to cause glare or impair the vision of motorists, cyclists, or pedestrians; or that illuminate adjacent residential development.
- q. Signs that contain any lighting or control mechanism that causes unreasonable interference with radio, television, or other communication signals.
- r. Signs placed upon light poles, benches, bus shelters, waste receptacles or shopping cart corrals except those which identify the use of the object on which they are placed, i.e. "Cart Return," "Bus Stop."
- s. Signs erected on public utility poles, even if they are located on private property other than signs erected by a public authority for public purposes.
- t. Signs, other than historical markers or those identifying a natural feature, painted on or attached to trees, rocks, or other natural features.
- u. Signs visible from a public right-of-way that use the word "stop" or "danger" or otherwise present or imply the need or requirement of stopping, caution, the existence of danger, or which for any reason are likely to be confused with any sign displayed or authorized by a public authority.

- v. Any sign mounted to the structural roof or applied to the roof including painted signs.
- w. Signs projecting above the building roof or parapet line.
- x. Signs that have become deteriorated or damaged to such an extent that the cost of the reconstruction or restoration of said signs is in excess of 50 percent of its replacement value exclusive of foundations.
- y. Signs lettered in a crude or amateurish fashion.
- z. Signs on any broadcasting or telecommunications tower or any antenna other than appropriate hazard/warning signs.
- aa. Vehicles or trailers (operable or inoperable) which contain advertising and are not used in the daily conduct of business.
- bb. Home occupation signs of all kinds.

## 16.5 Permitted Signs

*16.5.1 Freestanding Signs.* All freestanding signs shall consist of or be covered entirely in masonry, stone, wood, or other decorative surface treatment such that metallic structural elements, including poles, are not visible. For the purpose of this Section, paint of any kind including textured or rubberized paint shall not qualify as a cladding material.

The height of freestanding signs on property lying below the grade of the street shall be taken from the adjacent curb elevation or in the absence of a curb, the street centerline elevation. All other sign heights shall be measured from grade.

Any berming or filling solely for the purpose of locating the sign shall be computed as a part of the sign height.

All monument style signs must have a minimum base of one foot (1') in height, covered as described above.

- a. General Business Signs. Freestanding General business signs may be of the monument or pole (elevated) style, and seventy-five (75) square feet in area. Elevated signs may be up to twenty (20) feet in height, and monument style signs up to ten (10) feet in height, on any individual development site, unless specifically allowed or further limited by this Section.

Freestanding signs are limited to one (1) per parcel, unless otherwise allowed by this Section. Such signs shall have a minimum setback of ten (10) feet from any side lot line (measured from the edge of the sign face).

Reader boards shall be integrated into the structure of the general business sign and count toward the maximum allowable display area.

Corner or double frontage lots shall be allowed two (2) signs the combined area of which shall not exceed one hundred-fifty (150) square feet. The area of the two signs may be distributed in any combination not to exceed seventy-five (75) square feet on any individual sign.

A summary of the sign requirements for Freestanding General Business signs is shown below:

Permitted Sign Area (One Sign)	Sign Area on Corner Lots (Two Signs)	Permitted Sign Height	Side Lot Line Setback
<b>Pole:</b>			
75 sq. ft.	150 sq. ft.	20'	10'
<b>Monument:</b>			
75 sq. ft.	150 sq. ft.	10'	10'

- b. Shopping Center Signs. For the purposes of this Section, the term "Shopping Center" shall be inclusive of "Shopping Centers" and "Neighborhood Shopping Centers". Additionally, for the purposes of this Section, a development site must consist of at least four (4) individual businesses and a minimum of 10,000 square feet of gross building area to be considered a shopping center.

Shopping Centers consisting of between 10,000 and 20,000 square feet of gross building area shall be allowed one (1) sign. The total area of said sign shall not exceed one-hundred (100) square feet. Said Shopping Centers lying on corner or double frontage lots shall be allowed two (2) freestanding signs. The combined area of these signs shall not exceed 150 square feet.

Shopping Centers consisting of at least 20,000 square feet and less than 65,000 square feet of gross building area shall be allowed one (1) sign. The total area of said sign shall not exceed 150 square feet. Said Shopping Centers lying on corner or double frontage lots shall be allowed two (2) freestanding signs. The combined area of these signs shall not exceed 200 square feet.

Shopping Centers consisting of greater than 65,000 square feet of gross building area shall be allowed one (1) sign. The total area of said sign shall not exceed 250 square feet. Said Shopping Centers lying on corner or double frontage lots shall be allowed two (2) freestanding signs. The combined area of these signs shall not exceed 350 square feet.

The combined height of the base and sign shall not exceed 25 feet in height for Shopping Centers less than 65,000 square feet of gross building area and shall not exceed 35 feet in height for Shopping Centers greater than 65,000 square feet of gross building area. All Shopping Center signs shall be set back a minimum of ten (10) feet from any lot line.

All shopping center signs shall be supported by a structure constructed of brick, stone or other masonry material, unless otherwise approved by the Planning Commission.

A summary of the sign requirements for Shopping Centers is shown below:

Shopping Center Gross Building Area (sq. ft.)	Permitted Sign Area (One Sign)	Permitted Sign Area on Corner Lots (Two Signs)	Permitted Sign Height	Side Lot Line and ROW Setback
10,000 – 20,000	100 sq. ft.	150 sq. ft.	25'	10'
20,000 – 65,000	150 sq. ft.	200 sq. ft.	25'	10'
65,000 – over	250 sq. ft.	350 sq. ft.	35'	10'

- c. *Billboards.* Off-premise signs with a maximum display area of 672 square feet. All Billboards erected after the adoption of this ordinance shall be of the digital style and have no more than seven (7) messages per minute. For each digital billboard erected at least four (4) non-conforming billboards must be removed within 6 months.

*Area and Dimensional Requirements:* The following area and dimensional regulations shall apply to all billboards:

*Minimum Lot Area:* Determined by setback requirements

*Minimum Setbacks:* Determined by district setback requirements. All billboards must meet the setback requirements of the zone in which they are to be located. No part of the sign, including the sign face, shall extend over a building setback line. In no case shall any billboard sign be less than 10' from any property line measured from edge of sign face.

*Movement:* Except for the change of messages on a digital billboard there shall be no movement (i.e. video copy etc.) involved with the messages displayed.

*Lighting:* All lighting of Billboards shall be done in a manner that will not interfere with commuters' vision. The light intensity of Digital Billboards shall be adjusted for daylight and dark so as not to impair commuters' nighttime vision.

*Height and Location Restrictions.* In regard to the height and citing of all billboard signs, the following regulations shall be observed:

No billboard shall be located closer than 600 feet to any residence.

No billboard shall be located within a 2000-foot radius from another billboard

No billboard shall exceed 45 feet in height as measured from grade. (*See standards above*).

No billboards shall be located in the Downtown Historic District, or within a ½ mile radius of the declared center point of said district. (*See Map*)

No billboard may be mounted or displayed as a roof sign or wall sign or on any structure not intended specifically to use as a billboard.

No billboard shall be located on or project over any public property, right-of-way, utility easement or drainage easement.

Exposed backs of signs, poles and other support structures must be painted black, dark green, or dark brown to blend with natural surroundings and present a more attractive appearance.

Billboards shall only be permitted in areas zoned B-1, B-2, M-1, or M-2, along the following Roadways:

Highway 59

Highway 31

*16.5.2 Subdivision Identification Marker.* A sign marking an entrance to a residential subdivision, office park, or industrial park. A subdivision marker shall contain no advertising other than the name of the residential subdivision, office park, or industrial park and/or the developer. Subdivision markers must be within the perimeter of the subdivision and shall not be located within the public right of way, except for those located in a landscaped traffic island. Subdivision Markers shall meet the following standards:

*Maximum Number: 1 per street front (entrance); 2 sign faces may be used (on either side of entrance) with a wall, fence or other architectural entrance feature.*

*Maximum Area: 36 sq. ft. (sign face)*

*Maximum Height: 8 ft. (overall structure)*

*Permitted for all-residential, mixed use, and non-residential projects of 10 acres or more.*

*Limited to name and/or logo.*

For subdivision markers located in traffic islands as mentioned above, the following criteria shall apply:

- a. The sign must be placed in a designated curbed median.
- b. The sign must be constructed of a durable material such as brick.
- c. The developer must indicate the location of sign on a site plan and provide construction details for review and approval.
- d. Any utilities involved with construction of the sign, shall be permitted through the applicable utility agency.
- e. If the sign is ever damaged by natural or human causes the sign will not be repaired or replaced at the expense of the City, nor shall it be allowed to remain in a damaged condition.
- f. The developer's engineer must certify that site distance around the sign meets minimum requirement established by the City.
- g. All such signs shall be maintained perpetually by the developer, the owner of the sign, a pertinent homeowners association or some other person who is legally accountable. Such accountability is required before a permit shall be issued. If, following the issuance of a permit and subsequent erection of such signs, no accountable person accepts legal



responsibility to maintain the signs and no other provision has been made for maintenance, the signs shall be removed by the developer or owner.

**16.5.3 Building (Wall) Signs.** Building signs on any single development site shall not exceed a total of two (2) square feet per linear foot of the main or entry façade except in the Downtown Historic District where building signs shall not exceed a total of one (1) square foot per linear foot of the main or entry façade.

**Note:** Individual businesses will be allowed a minimum of 32 square feet, except the Downtown Historic District where a minimum of 24 square feet will be allowed. No individual business shall be allowed more than 500 square feet of building signage, and no single sign shall exceed 300 square feet.

- a. **Projecting Signs** - Projecting signs shall not project into the public right-of-way, except in the Downtown Historic District. Signs in the Downtown Historic District may project into a public pedestrian way no more than six feet. Signs projecting over pedestrian ways shall provide a minimum of eight (8) feet vertical clearance.

Signs in the Downtown Historic District may project into an alley no more than six (6) feet. Projections greater than one (1) foot and up to six (6) feet shall be reviewed and approved by the Building Official. Signs projecting over public alleyways shall provide a minimum of sixteen (16) feet of vertical clearance.

- b. **Shopping Center** - When determining the allowable exterior sign area for Shopping Centers and Neighborhood Shopping Centers, where it cannot be determined which facade is the main or entry facade, the longest single exterior elevation of the structure shall be used.

When determining the allowable exterior sign area for an individual business in a Shopping Center or Neighborhood Shopping Center, where it cannot be determined which facade portion of the individual business is the main or entry facade, the longest single exterior entry facade of the individual business shall be used.

When determining the allowable exterior sign area of individual mall shops or other businesses without exterior façades, the interior or entry facade width or the allowable minimum shall be used.

- c. **Historic District** - Permanent wall signs for those businesses having no frontage on primary streets may be mounted to the wall of another business in the historic district subject to the approval of the property/building owner of the host building. Said wall signs shall be calculated using the parent structures facade frontage as set out in above and count toward the overall allowable signage of the same. Said wall signs shall not count toward the host building's overall allowable wall signage. In no case shall the host building provide more than seventy-five (75) square feet of signage for other businesses, or cover

more than twenty-five (25) percent of the surface of a building's façade, which every is less.

16.5.4 *Multi-Family Residential Signs*. Permits are required for all signs located on multi-family residential properties. The following requirements apply to multi-family residential sites:

- a. Wall Sign - 32 square feet.
- b. Freestanding Sign - 32 square feet.
- c. Allow one sign of either type at each entrance from a public street.

16.5.5 *Commercial Banners and Wind Signs*. Banners and Wind Signs may be utilized by commercial establishments provided:

At least five business days before signs are to be posted, the designated representative of the business or commercial establishment shall provide a sign installation and removal plan for review by the Planning Director, who shall issue a permit for signs to be posted if the following standards are met:

- a. Signs or banners shall be located outside of the public right-of-way of any public street and outside of the sight distance triangle of any intersection.
- b. Signs or banners may be posted up to thirty (30) days.
- c. Each sign or banner shall require a separate permit, and no more than four (4) permits per calendar year shall be issued for any one commercial establishment.
- d. In no case shall any sign or banner be located closer than 100 feet from another such sign or banner on the same site.
- e. Each new business shall be allowed one exempt "Grand Opening" sign or banner for up to 30 days from the date of opening, in the place of or in addition to their permanent business sign.
- f. Nothing in this provision shall be construed to authorize the posting of such signs or banners upon trees, utility poles, traffic control signs, lights or devices in any place or manner prohibited by the provisions herein, nor on private property without written consent of the owner.

16.5.6 *Painted Graphics (Murals)*

- a. Upon compliance with the requirements of this section, Painted Graphics (i.e., murals) are permitted in the following districts: B-1, B-2, M-1, M-2 and business overlay district.
- b. All painted graphics shall be pre-approved by the Bay Minette Planning Commission.

- c. Applications for review for the Bay Minette Planning Commission shall be submitted 14 days prior to the Planning Commission session at which consideration of the request will be undertaken. Applications shall be submitted to the Bay Minette Building Department. Applications shall include the following:
  - 1) Location of the building where the painted graphics are proposed.
  - 2) The size of the painted graphic.
  - 3) A sketch of the painted graphic and/or color rendering of the painted graphic.
  - 4) The Bay Minette Planning Commission will review each application based on the following criteria:
    - i. Compliance with the Comprehensive Plan;
    - ii. Compliance with any other approved planning document;
    - iii. Compliance with the standards, goals and intent of this Ordinance; and
    - iv. The character of the surrounding property, including any pending development activity.
- d. No lead base paints are permitted.
- e. Commencement of work shall be within 30 days of approval.
- f. Completion shall be within 30 days. The building department may give one (1) 30-day extension.
- g. The building owner shall sign all applications submitted hereunder. The building owner shall be responsible for maintenance of any approved painted graphics. If maintenance is necessary, in the opinion of the Building Official, the building owner shall within 30 days of receipt of notice begin repairs or maintenance and shall complete said repairs or maintenance within 30 days of commencement. The responsible party may request a 30-day extension in writing to be granted in the sole discretion of the Building Official. If not completed in the specified time frame, the City may remove the painted graphic at the expense of the responsible party.

## 16.6 Design, Construction, and Maintenance of Signs

### 16.6.1 *Illumination Standards.*

- a. Sign lighting shall not be designed or located to cause confusion with traffic signals.
- b. Devices that illuminate a sign or signs shall be placed and shielded so that direct light shall not be cast into the eyes of pedestrians, cyclists or motorists entering or using a street, road or highway.

### 16.6.2 *Placement and Clearance Standards.*

- a. Signs shall be located such that there is at every intersection and driveway clear sight distance for pedestrians, cyclists, and motorists traveling on or entering any street, road, or highway.

- b. No sign structure shall be erected that impedes use of any fire escape, emergency exit, or ventilation opening.
- c. No freestanding sign shall project into a public right-of-way.
- d. No building sign shall project into a public right-of-way except in the Downtown Historic District. Signs in the Downtown Historic District may project over a public pedestrian-way no more than six (6) feet. Signs projecting over pedestrian-ways shall provide a minimum of eight (8) feet of vertical clearance.

Signs in the Downtown Historic District may project into an alley no more than six (6) feet. Projections greater than one (1) foot and up to six (6) feet shall be reviewed and approved by the Building Official. Signs projecting over public alleyways shall provide a minimum of 16 feet of vertical clearance.

**16.6.3** *Calculation of Display Area.* The display area of a sign or advertising device is measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire sign or advertising device; excluding trim, frame, apron, posts, uprights, braces or other structural members which support it.

Where a sign is double facing and only one face can be viewed from a single location on a roadway, the display area shall be the area of one sign face. Where a sign has two (2) or more faces that can be viewed from a single location, the display area of all such faces shall be included in determining the total display area of the sign.

Open Letter sign display area shall be measured by the number of square feet in the smallest rectangle, within which all letters, logos, symbols or other elements of the sign can be enclosed, multiplied by a factor of 0.8.

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

**16.6.4** *Maintenance.* All signs, including their supports, braces, guys and anchors, electrical parts and lighting fixtures, and all painted and display areas, shall be maintained in accordance with the building and electrical codes adopted by the City of Bay Minette. All signs and their components shall be maintained in good repair, free of rust, peeling, fading, broken or cracked panels, and broken or missing letters. Vegetation must be properly maintained and no condition shall be allowed that would constitute a fire or health hazard. The general area in the vicinity of any sign shall be kept free and clear of any unnecessary or discarded sign materials.

No sign shall be allowed to deteriorate to a condition in which it is unsightly in appearance or to a condition in which it requires repairs or renovations in an amount which exceeds 50 percent of its current replacement cost. Signs which deteriorate to such a condition are

deemed to be in violation of this ordinance, and as such must either be removed or improved (if permitted) by the person responsible for maintaining the sign.

## 16.7 Permitting and Enforcement

### 16.7.1 *Permits for Permanent Signs.*

- a. Applicability. No person shall erect, alter, relocate, repair, replace the face of, or change a sign without first obtaining a permit, except for the following actions which shall not require a permit:
  1. Changing the copy, announcement or message on a reader board sign;
  2. Cleaning, painting, or comparable maintenance of a sign that does not alter the size, image or message of the sign;
  3. Erecting a sign for which a permit is not required, under "Exempt Signs" of this Ordinance.
- b. Procedure. All sign permits shall be procured in accordance with the following procedure:
  1. A written application shall be submitted to the Building Official for review and processing. The Building Official, only upon determination that all requisite documentation and fees accompany the application form, will accept the application. The application shall include supplementary information as may be specifically requested by the Building Official to determine compliance with these regulations.
  2. The Building Official shall review the application, plans, and specifications to determine whether the proposed sign conforms to all applicable requirements of these regulations.
  3. Following review and determination as to conformance with these regulations, the Building Official shall either approve or deny the application for the sign permit. In case of denial, the Building Official shall specify the section or sections of these regulations with which the proposed sign is not in conformance.
  4. An application may be amended within thirty (30) days of the application date to include additional signs up to the allowable maximum. Additional fees shall be charged if the additional signs exceed the size limitations for fee category. After thirty (30) days, a new sign permit shall be required for any sign constructed and all fees shall be required.
- c. Submission Requirements. No request for a sign permit shall be considered complete until all the following has been submitted to the Building Official.
  1. The application form shall be submitted with all required information completed by the applicant. The application form is available from the Building Official.
  2. Plans and specifications for the proposed sign shall be submitted, drawn to scale, and include the following:

- i. Site plan of development site showing location of any freestanding sign(s) including any easements, public rights-of-way, property lines, buildings, sight distance triangles and other signs on the property;
  - ii. Main or entrance façade including linear dimension;
  - iii. Dimensions and elevations (including message) of all signs;
  - iv. Dimensions of any supporting structures;
  - v. Maximum and minimum height of sign, as measured from finished grade;
  - vi. For illuminated signs, indicate type and placement of illumination;
  - vii. Inventory of number, type, location, and display area of all existing signs on the same property and/or building on which the sign is to be located.
- b. The applicant shall be required to pay an application fee according to the current schedule of fees established by the Bay Minette City Council for the particular category of application. This fee is nonrefundable irrespective of the final disposition of the application.
- c. A sign permit shall be valid for a period of 180 days after issuance. Failure to place the sign within the allotted time period shall void the permit and necessitate reapplication.

## 16.8 Nonconforming, Illegal, and Abandoned Signs

### 16.8.1 *Nonconforming Signs.*

A nonconforming sign is any sign within the jurisdiction of the Zoning Ordinance of the City of Bay Minette on the effective date of this article or any sign existing within any area added to such jurisdiction after the effective date of this article, which is prohibited by, or does not conform to the requirements of, these regulations. A nonconforming sign may be continued and shall be maintained in good condition as required by these regulations, however, it shall not be:

- a. Structurally changed to another nonconforming sign, but its pictorial content may be changed.
- b. Structurally altered to prolong the life of the sign, except to meet safety requirements.
- c. Expanded or altered in any manner that increases the degree of nonconformity.
- d. Re-established after damage or destruction if the estimated cost of reconstruction exceeds fifty (50) percent of the appraised replacement cost as determined by the Building Official.
- e. Continued in use when a conforming sign or sign structure shall be erected on the same parcel or unit.
- f. Continued in use when the structure housing the occupancy is demolished or requires renovations the cost of which exceeds fifty (50) percent of the assessed value of the structure.

### 16.8.2 *Abandoned Signs.*

Except as otherwise provided in this article, any sign that is located on property which becomes vacant and unoccupied, pertains to a business which does not maintain a current business license, or pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Any abandoned sign shall be prohibited and shall be removed by the owner of the sign or the owner of the property. The frame of an abandoned sign shall not be required to be removed if it conforms to all applicable terms contained in these regulations (including the sign face area for sign replacement yielded by such frame).

Any sign structure which supported an abandoned sign and which structure conforms to all applicable terms contained in these regulations shall be allowed to remain in place. However, in the event a sign structure which supported or supports an abandoned sign is inconsistent with any term contained in these regulations (including the sign face area for sign replacement yielded by the frame), then the sign structure and frame shall be either altered to comply with the terms contained herein or removed by the owner of such structure or property.

### *16.8.3 Illegal Signs.*

The following signs shall be considered to be illegal and a violation of the terms of this article:

- a. A sign erected or maintained after the effective date of this article inconsistent with the terms contained herein;
- b. A nonconforming sign which was erected inconsistent with the terms governing location, height, surface area or other regulatory measure applicable at the time of its erection;
- c. An abandoned sign.

Upon determination by the Building Official that a certain sign is illegal, the Building Official shall act to remedy the violation, which may include:

- a. Causing the issuance of a notice of violation to the individual who owns, is responsible for or benefits from the display of such sign prescribing the action necessary to make the sign legal and conforming to the terms contained herein or ordering the removal of the illegal sign and also prescribing the time which the individual is afforded to accomplish such action;
- b. The removal of any illegal sign located on public property or on private property located on public property, including any such sign located within a street right-of-way in which case the City shall have the right to recover from the individual erecting such a sign the full costs of removal and disposal.

Failure to bring any illegal sign into conformance with the terms contained in this article or any other violation of the terms contained in this article shall be considered a violation of the Zoning Ordinance of the City of Bay Minette and shall be subject to the remedies and penalties provided by such ordinance and by state law.

## ARTICLE 17. SEXUALLY ORIENTED ESTABLISHMENTS

### 17.1 Power and Authority

The City of Bay Minette has the power and authority to adopt and enforce the terms, conditions and regulations established in this Ordinance pursuant to its police powers to protect the public health, safety, morals and general public welfare, to address, mitigate and if possible eliminate the adverse impacts and secondary effects of sexually oriented business activities on the areas in which such sexually oriented business activities are located.

### 17.2 Definitions

Unless the context clearly indicates otherwise, for the purposes of this Ordinance, the following words, combinations of words, terms and phrases shall have the following meanings:

*City.* The City of Bay Minette, Alabama.

*Mixed-Use District.* A zoning district which permits a combination of residential and commercial uses within a single development, such as a Planned Unit Development (PUD) or a Planned Development District (PDD).

*Park.* A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis court, pedestrian/bicycle path, wilderness area, or other similar public land within the City which is under the control, operation, or management of either the City, Baldwin County, the State of Alabama, or the United States Government.

*School.* A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. This term includes all of the school grounds and connected or related facilities.

*Sexually oriented business.* Any adult arcade, adult bookstore, adult motion picture theater, adult motion picture rental, adult mini-motion picture theater, adult steam room/bathhouse/sauna facility, adult companionship establishment, adult rap/conversation parlor, adult massage parlors, adult health/sport club, adult cabaret, adult novelty store, adult motion picture arcade, adult modeling studio, adult hotel/motel, adult body painting studio, escort, escort agency, sexual encounter establishment, nude studio, or any other commercial or business enterprise which has as a primary focus of its business the offering for sale, rent, or exhibit, or the exhibit of, items or services intended to provide sexual stimulation or sexual gratification to the customer, or which places an emphasis on the presentation, display, depiction or description of sexual activities or of nude persons. The term "sexually oriented business," however, shall not be construed to include:

- a. Professional offices or schools of licensed physicians, chiropractors, psychologists,



physical therapists, teachers or similar licensed professionals performing functions authorized under the license(s) held; or

- b. Establishments or businesses operated by or employing licensed cosmetologists or barbers, performing functions authorized under licenses held.

### 17.3 Prohibited in Certain Areas

Sexually oriented businesses are prohibited in the corporate limits of the City of Bay Minette in the following areas, locations, and zones:

- a. Within any zoning district other than those where sexually oriented businesses are expressly permitted in Section 17.4 below;
- b. Within one thousand (1,000) linear feet of a residential zoning district or a residential area of a Mixed-Use District;
- c. Within five hundred (500) linear feet of any preexisting residence located in a nonresidential zone;
- d. Within one hundred (100) linear feet of any nonresidential zoning district or nonresidential area of any Mixed-Use District which does not expressly permit sexually oriented businesses;
- e. Within one thousand (1,000) linear feet of a preexisting place of worship, school, park, museum, library, cemetery, or funeral home;
- f. Within two thousand (2,000) linear feet of any other sexually oriented businesses; or
- g. Within the same building, structure, or portion thereof, as any other sexually oriented business.

For purposes of this section, all measurements shall be made in a straight line without regard to the intervening structures or objects and shall be made from the property line of the premises on which the sexually oriented business operates or wishes to operate to the nearest property line of the subject district, area, use or premises.

### 17.4 Permitted in Certain Areas

Subject to the spacing and minimum distance prohibitions contained in this Ordinance, a sexually oriented business is a permitted use only within those areas of the City zoned B-2 General Business District, and M-1 Light Industrial District.