

Appendix B - ZONING^[1]

ARTICLE I. - PURPOSE, ENACTMENT AND TITLE

Sec. 1.1. - Purpose.

The Town of Elberta, 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 [Code of Ala. 1975, § 11-53-101 et seq.], 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.

Sec. 1.2. - Enactment.

An ordinance of the Town of Elberta, Alabama, establishing rules and regulations for zoning, classifying land; establishing zoning districts and district requirements.

Sec. 1.3. - Title.

This ordinance shall be known and may be cited as the "The Zoning Ordinance of the Town of Elberta."

Sec. 1.4. - Severability.

That if any clause, section or other part of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

ARTICLE II. - LEGAL STATUS

Sec. 2.1. - Authority.

- 2.1.1 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 [Code of Ala. 1975, § 11-52-1 et seq.].

Sec. 2.2. - Jurisdiction.

This ordinance shall be in force and effect for zoning purposes within the corporate limits of the Town of Elberta as presently or hereinafter established.

Sec. 2.3. - Conflict with other laws.

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

Sec. 2.4. - Validity.

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.

Sec. 2.5. - Disclaimer of liability.

These regulations shall not create liability on the part of the Town of Elberta, the Elberta Planning Commission, the Elberta 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 there under.

Sec. 2.6. - Effective date.

This ordinance shall take effect and be in force from and after the date of its adoption by the Elberta Town Council.

ARTICLE III. - OFFICIAL PLANS AND MAPS

Sec. 3.1. - Ordinance to support comprehensive plan.

This ordinance shall be implemented in support of the Elberta Comprehensive Plan. Copies of this plan are filed in the office of the Town Clerk.

Sec. 3.2. - Future land use map.

The Future Land Use Map contained in the development plan shall serve as a guide for the future development of Elberta. To the extent practical, it shall be followed in the administration of this ordinance.

Sec. 3.3. - Zoning district map.

The Zoning District Map, (Appendix 2) is hereby adopted and made a part of this ordinance. This map shall be signed by the Mayor and attested by the Town Clerk. It shall be filed in the office of the Town Clerk and shall show thereon the date of adoption of this ordinance.

Sec. 3.4. - Changes in district boundaries, other information.

If, in accordance with the provisions of this ordinance, changes are made in the district boundaries or other information portrayed on the Official Zoning Map, changes shall be made on the map promptly after the amendment has been approved by the Town Council. Unauthorized alterations of the Official Zoning Map shall be considered a violation of this ordinance and subject to penalties as prescribed under "Penalties."

Sec. 3.5. - Recordkeeping.

The Town 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 IV. - ADOPTION

Sec. 4.1. - Adoption of ordinance.

This ordinance was adopted by the Town of Elberta, Alabama, on the _____ day of _____ / _____ / _____ , 2005.

/s/ _____

Mayor

/s/ _____

Town Clerk

Sec. 4.2. - Certification.

I, _____, Town Clerk of the Town of Elberta, Alabama, certify that the document described herein, identified as the "Zoning Ordinance of the Town of Elberta, Alabama," is a true and correct copy of the Ordinance number _____, adopted by the Town of Elberta, this _____ day of _____ / _____ / _____, 2005.

Sec. 4.3. - Seal of the Town of Elberta.

ARTICLE V. - PROCEDURES FOR THE TRANSACTION OF BUSINESS

Sec. 5.1. - Implementing authority.

The Elberta Planning Commission shall be the implementing authority for this ordinance, except that where required by law, action of the Elberta Town Council or Board of Adjustment is necessary. Such deliberative action of the council or the board shall take place after due consideration of recommendations made by the Planning Commission.

Sec. 5.2. - Public hearings.

When the Planning Commission must hold a public hearing on any matter where its action is decisive, due notice shall be given as required by law. When the Town Council or the Board of Adjustment must hold a public hearing on any matter recommended by the Planning Commission, the Planning Commission may dispense with a separate hearing and submit its recommendation to the appropriate body. The public notice of such hearing by the Town Council or the Board of Adjustment may be published or posted by the Town Clerk immediately upon receipt of the recommendation from the Planning Commission and consultation with the mayor or chairman of the Board of Adjustment regarding the date and time of said hearing.

Sec. 5.3. - Rules.

"Robert's Rules of Order" shall generally govern the order of business and conduct of meetings of the Planning Commission or any committee of said commission.

Sec. 5.4. - Meetings.

5.4.1 The Planning Commission shall hold at least one (1) regularly scheduled meeting per month. The date, time, and place of such meeting shall be determined by the Planning Commission.

5.4.2 Special meeting of the Planning Commission may be called by the chairman upon the giving of a forty-eight (48) hour notice to the membership.

Sec. 5.5. - Agenda.

An agenda for each meeting shall be prepared by the commission secretary for each regular meeting of the Planning Commission.

Sec. 5.6. - Quorum.

Unless otherwise provided by statute, a majority of the members shall constitute a quorum for the conduct of business.

Sec. 5.7. - Applications.

Applications for zoning amendments and recommendations regarding the development of land shall be filed and handled in accordance with the provisions hereinafter detailed in this ordinance.

Sec. 5.8. - Study.

The Planning Commission may defer action on any matter submitted to it at a regular meeting until the next regular meeting so that proper study of the matter may be made by the membership; provided, however, that the commission shall take action on any matter submitted to it within the time limitation as required by law.

Sec. 5.9. - Signatures.

The chairman or in the event of his absence, the vice-chairman and/or the secretary shall be the person(s) authorized to sign documents testifying to action taken by the Planning Commission.

ARTICLE VI. - DEFINITION OF TERMS

Sec. 6.1. - 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 Town of Elberta.

Sec. 6.2. - 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 areas, 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.

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

Basement. A story all or partly underground but having at least one-half (½) of its height below the average level of the adjoining ground.

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

Board. The Elberta 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.

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 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 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 official. Individual appointed by the Town to carry out inspections required by the Building Code.

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

Business/Commercial Center. A group of two or more owners, occupants or tenants with common customer and employee parking provided on site, 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.

Camp site. 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.

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.

Certificate of occupancy. Official certification that a premises conforms to provisions of the zoning ordinance and building code, and may be used or occupied. Such certificate is granted for new construction or for the substantial alteration or additions to existing structures. A structure may not be occupied unless such certificate is issued by the building official.

Change of occupancy. The term "change of occupancy" shall mean a discontinuance of an existing use and the substitution 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.

Changeable Copy Sign/Reader Board. A 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. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this Ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this Ordinance.

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

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

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

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

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

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 Elberta Planning Commission.

Comprehensive plan. The community development plan including land use, housing, public facilities, and other planning elements currently in use by the Town.

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 centerline of a valley gutter, or the edge of the pavement where no curb or gutters exist.

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

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

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 or more parcels or the construction, relocation of any structure; any mining, excavation, landfill, or land disturbance; and any development of land.

(Ord. of 6-17-2003)

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 family, with separate cooking and housekeeping facilities, either permanently or temporarily.

- a. *Single-Family* - A detached building designed for and occupied by one family as a home, with cooking and housekeeping facilities which meets or exceeds the following standards:
 1. The home has a length not to exceed four times its width, with the length measured along the longest axis and the width measured at the narrowest part of the other axis with the minimum width of not less than 20 feet.
 2. The roof shall have a minimum 3:12 roof pitch and shall have a surface of wood shakes, asphalt composition, wood shingles, concrete, fiberglass or metal tiles, slate, or built up gravel materials. All roof structures shall provide an eave projection of not less than six inches.
 3. The exterior siding materials shall consist of wood, masonry, concrete, stucco, masonite, metal, brick, or vinyl lap or other materials of like appearance.
 4. The electric meter must be attached to the structure.
 5. Taxed as real property.
- b. *Two-Family* - A single building occupied by or designed for occupancy by two families only, with separate cooking and housekeeping facilities for each, separated by a common wall and sharing a common roof and foundation.
- c. *Multiple-Family* - A building designed for or occupied by three 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.

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 Town; but not including buildings housing employees, or public safety facilities such as fire and/or police stations.

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*.

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

Flashing or intermittent illuminating signs. Time and temperature announcements, excluding other advertising copy, are not deemed to be flashing or intermittent illuminating signs.

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.

Flood plain. 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.

Flood 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* -shall mean 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.

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 dwelling and carried on solely by the inhabitant thereof, and which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and does not change the character thereof.

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.

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, Town offices, etc.).

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

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 pawnshops 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.

Legal Non-Conforming Sign. One ground-mounted sign located within the Town limits prior to the enactment of this Zoning Ordinance, or located on property prior to its annexation, on premises which otherwise meets the performance requirements as stated in Section 10.7. Billboards, portable signs, off-premises signs, temporary signs and all signs prohibited in Section 10.74 are excluded from being legal non-conforming signs.

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, 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. 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.

Marina. A facility for storing, servicing, fueling, berthing, and securing and launching of private pleasure crafts that may include the sale of fuel and incidental supplies for boat owners, crews, and guests, servicing and repair of boats, and sale and charter of boats. Dry boat storage may also be provided. A yacht club shall be considered 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 multifamily structure where no boat related services are rendered.

(Ord. of 6-17-2003)

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.

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

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.

Mobile home park a.k.a. Manufactured Home Subdivision. A residential development on a parcel of land in one 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.

(Ord. of 6-17-2003)

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

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.

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 restaurant, dining room, bar, or other similar establishment providing food or refreshments wherein floorshows 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.

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

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

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

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 Town representative for an individual, firm, trust, partnership, association or corporation to undertake activities related to subdivisions, zoning, land use, building or other actions permitted in this ordinance or by other Town 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.

Planning Commission. The Town of Elberta Planning Commission.

Planned Unit Development (PUD). A planned unit development (1) 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 an have a mix of building types and land uses; (2) includes principal and accessory uses and structures substantially related to the character of the development itself and the surrounding vicinity of which it is a part; (3) is developed according to a common plan which includes not only street, utilities, lots and/or building sites and the like, but also site plans, floor plans, elevations for all structures, detailed plans for all other uses, public uses and spaces; and (4) provides intrinsic and extrinsic benefits to the municipality, promotes the general welfare of the municipality and the vicinity of the project. The property proposed for rezoning to a PUD classification shall have some special characteristics or unique features that impose special development of the property.

(Ord. of 6-21-2005; 9-18-2007)

Plat. A map, plan or layout of a county, 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.

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

Principal use of 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.

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: YMCAs, YWCAs, Salvation Army, churches and church institutions, orphanages, humane societies, private welfare organizations, nonprofit lodges and fraternal orders, hospitals, Red Cross, and other general charitable institutions.

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

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

(Ord. of 6-17-2003)

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.

Sewers, 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.

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 on site, 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, including any base or supporting structure.

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

Construction sign. Any sign giving the name or names of principal contractors, architects and lending institutions responsible for construction on the premises during the time actual construction work is in progress.

Establishment. A commercial, industrial, institutional, educational, office, business, or financial entity.

Non-Conforming Sign. A sign in existence on the date of adoption of this Ordinance and that is not in conformance with the requirements of this Ordinance.

Off-Premises Sign. 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-Premises Sign. A sign relating its subject matter to the premises on which said sign is located.

Permanent sign. 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 whether on its own trailer, wheels, or otherwise, which is designed to be transported from one place to another.

Premises. An area of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

Real estate sign. A sign which advertises the sale, rental or development of the premises upon which it is located.

Sandwich sign. Any sign, double or single faced, which is portable and may readily be moved from place to place.

Shopping center. A group of two (2) or more retail service establishments located on commonly owned property, or sharing the same parking facilities or connected together by common walls, interior aisles, or malls.

Sign height. The vertical distance from the finished grade at the base of the supporting structure to the top of the sign, or its frame or supporting structure, whichever is higher.

Sign surface area. The surface area of a sign shall be computed for the area within the periphery of regular geometric forms, comprising all of the display area of the sign and including all the elements of the matter displayed, but not including structural elements of the sign bearing no advertising matter.

Temporary sign. A sign or advertising display intended to be displayed for a short period of time.

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

Window sign. Any sign placed inside or upon a window facing the outside and which is intended to be seen from the exterior.

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."

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 Town, 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.

Collector street. A street used to carry traffic from minor streets to the system of major streets.

Cul-de-sac or dead end street. A street having one end open to traffic and one terminating in a vehicular turnaround.

Major street, arterial street or highway. A street or highway or exceptional continuity designed to carry high volume traffic considerable distances.

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

(Ord. of 6-17-2003)

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.

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 of a mobile home facility 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.

Town. The Town of Elberta, Alabama.

Town Council. The chief legislative body of the Town of Elberta, Alabama.

Town engineer. The Town of Elberta Engineer.

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 (2½) stories or thirty-five (35) feet in height.

Travel trailer park a.k.a. Recreational Vehicle 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.

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.

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. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. No fencing exceeding 4' (four feet) in height shall be located in the front yard setback of any district.
- 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 or 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.

(Ord. of 6-17-2003)

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

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

Zoning districts. A section of the Town designated in this ordinance text and delineated on the zoning map wherein 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 VII. - GENERAL PROVISIONS

Sec. 7.1. - Application of regulations.

Except as hereinafter provided, the following shall generally apply:

- 7.1.1 *Use.* No building 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.
 - 7.1.1.1 *Mobile homes.* Mobile homes shall not be permitted in any district except R-3 as specified hereafter, and the Town Council shall not spot zone individual lots in other districts for mobile home use; except that a mobile home or other structure may be used temporarily as a construction shack in any district but must be removed immediately upon completion of the construction.
 - 7.1.1.2 *Modular structures.* Modular structures may be used for any uses permitted in the G-B and M-1 districts, subject to the same setback, landscaping and other requirements set forth in this ordinance.
- 7.1.2 *Building Heights.* No building shall hereafter be erected, constructed or altered so as to exceed the height limit specified in the regulations herein for the district in which it is located except as otherwise provided in this ordinance.
 - 7.1.2.1 *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. The height of a planned unit development structure shall be set by the Town Council at the same time as the other construction and use elements but shall not exceed the parameters of Section 8.4, "Planned Unit Developments".
- 7.1.3 *Lots.* No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that lot width or depth, front, side or rear yard, inner or outer courts, lot area per family or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for public use.
- 7.1.4 *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.

- 7.1.5 *Multi-Family*. Site plans shall be submitted no less than ten (10) days prior to the meeting at which they are to be reviewed.
- 7.1.5.1 Site plans shall be the same as those submitted to the Building Inspector and at the least shall contain an accurate plot plan drawn to scale showing the actual shape and dimensions of the lot to be built upon, the exact sizes and locations on the lot of the buildings and accessory buildings then existing and the lines, within which the proposed buildings and structures that shall be erected or altered, the existing and intended use of each building or part of building, the number of families or housekeeping units the building(s) is/are designed to accommodate, the topography, the proposed drainage system, the zone or intended zone for the use proposed, the names of streets adjoining said property, and such other information as may be necessary to determine and provide for the enforcement of this ordinance.
- 7.1.6 *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:
- 7.1.6.1 In any district where multi-family structures, motels or hotels are permitted, two (2) or more residential structures may be permitted on a lot provided that no building shall be located closer to another building on the same lot than a distance equal to half the sum of the heights of both buildings. In flood hazard areas identified on the National Flood Insurance Rate Maps, the height of a building shall be measured from the floor level of the first habitable story for purposes of this section. In addition, the front or rear of any building may be no closer to the front or rear of any other building than forty (40) feet. The said of any building shall be no closer to the side, front or rear of any other building than thirty (30) feet, except in a planned unit development as the Town Council, (CA) shall determine multiple buildings proximities which, when approved, shall be shown on the master plan.
- 7.1.7 *Residential Uses in Business District*. Residential uses shall be allowed in any business district as per the use tables in Article IX.

(Ord. of 6-21-2005)

Sec. 7.2. - Manufactured homes.

Manufactured homes not meeting HUD standards (U.S.C. 5401) and not having the HUD Stamp Certification permanently attached shall not be installed, erected or permitted. A manufactured home which otherwise qualifies as a single-family dwelling unit under Section 6.2 hereof, shall be allowed to be placed or erected in certain residential zones upon compliance with the following requirements:

- a. A manufactured home may be located within any residential zone.
- b. The manufactured home shall be reviewed and approved or disapproved by the Zoning Enforcement Officer as to compatibility standards set forth in Section 7.2.1.

Contractors doing any and all work required by this Ordinance in the setting of a manufactured home shall be licensed by the State and licensed by the Town of Elberta. Licensing by the State is required prior to receiving a license from the Town of Elberta. Compliance with this Ordinance and other Ordinances of the Town of Elberta, as is the same for erecting other types of structures, is a requirement prior to the issuance of a Building Permit.

1. Manufactured homes shall be installed according to the current regulations of the Alabama Manufactured Housing Commission Statutory Law, Title 24, Housing Code of Alabama [Code of Ala. 1975, title 24].
2. Be constructed according to standards established either by the Alabama Manufactured Housing Commission Statutory Law, Title 24, Housing Code of Alabama as amended from time to time [Code of Ala. 1975, title 24] or the Standard Building Code, or the National Manufacturing Housing Construction and Safety Standards Act of 1974 as amended, U.S.C. 5401.
3. Manufactured homes placed in residential zoning districts or areas shall meet the minimum compatibility

standards herein set forth and in Section 7.2.1.

- 7.2.1 Placement of a manufactured home may be permitted after it has been reviewed and determined that the manufactured home is compatible with the general appearance of homes in the surrounding area.

(Ord. of 6-17-2003)

Sec. 7.3. - Rules for determining boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts as shown on the official zoning map the following rules shall apply:

- 7.3.1 Unless otherwise indicated, the district boundaries are indicated as approximately following property lines, land lot lines, center lines of streets, highways, alleys, shorelines of streams, reservoirs, or other bodies of water, or civil boundaries, and shall be construed to follow such lines, as shown on the current Baldwin County Property Ownership Maps.
- 7.3.2 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.
- 7.3.3 Where district boundary lines as appearing on the official zoning map divide a lot which is in single ownership at the time of this enactment, the use classification of the larger(est) portion may be extended to the remainder by the Planning Commission without recourse to amendment procedure.
- 7.3.4 Where a public road, street or alley 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.
- 7.3.5 In case the exact location of a boundary cannot be determined by the foregoing methods, the Board of Adjustment shall upon application, determine the location of the boundary.

Sec. 7.4. - 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 also 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:

- 7.4.1 *Unsafe Structures.* Any structure or portion thereof declared unsafe by any authority may be restored to a safe condition, provided the requirements in this section are met.
- 7.4.2 *Alterations.* Any change in a nonconforming building site or yard area is subject to the following:
- 7.4.2.1 Any improvements, alterations, repairs or installation of new fixtures or equipment for an existing nonconforming structure may be accomplished by the owner of the structure upon obtaining the proper permits from the Town inspection department; provided that such improvements will not be detrimental to the area, will not increase the nonconformity, and will, in all other respects, meet the requirements of the district.
- 7.4.2.2 Should a nonconforming building be moved, all nonconforming yard areas shall be eliminated.
- 7.4.2.3 A nonconforming use of land shall be restricted to the lot occupied by such use as of the effective date of this ordinance. A nonconforming use of a building or buildings shall not be extended to include either additional buildings or land after the effective date of this ordinance.
- 7.4.2.4 A nonconforming building, structure, or improvement which is hereafter damaged or destroyed to an extent

exceeding fifty (50) percent of the reasonable estimated replacement cost of the structure, building or improvement may not be reconstructed or restored to the same nonconforming use except upon approval of the Board of Adjustment.

Such damaged or destroyed structures that are no longer in use shall be removed and the site cleared at the owner's expense.

- 7.4.3 *Change in Use.* A nonconforming use which is changed to a conforming use shall not be permitted to revert to the original or a less restrictive use.
- 7.4.4 *Discontinuance.* A nonconforming use which became such upon the adoption of this ordinance and which has been discontinued for a continuous period of one year shall not be reestablished and any future use shall be in conformity with the provisions of this ordinance.
- 7.4.5 *Adjacent Land.* The presence of a nonconforming use in a zoning district shall not be allowable as legal grounds for the granting of variances or zoning amendments for other surrounding properties by the Board of Adjustment.
- 7.4.6 *Access to Public Streets.* Access to public streets shall be maintained in accordance with the following requirements:
- 7.4.6.1 Each principal use shall be placed on a lot or parcel which provides frontage on a public street having a right-of-way of not less than sixty (60) feet, except where existing public rights-of-way are less than sixty (60) feet.
- 7.4.6.2 Any additional dwelling shall have access to a public street by means of a passageway open to the sky at least fifteen (15) feet in width.
- 7.4.7 *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:
- 7.4.7.1 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 four thousand (4,000) square feet and a minimum lot width at the building line of forty (40) feet, provided it is located on a public sewer. In commercial and industrial districts, uses compatible with the district may be allowed by the Planning Commission including but not limited to waiver of front, side, and rear setbacks, parking, etc.
- 7.4.7.2 When two (2) 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 shall be platted or re-parceled so as to create one or more lots which conform to the minimum frontage and area requirements of the use district.
- 7.4.8 *Yard Requirements.* Yard requirements shall be modified subject to the following conditions:
- 7.4.8.1 On double frontage lots, the required front yard shall be provided on each street.
- 7.4.8.2 Whenever a rear or side property line of a lot abuts upon an alley, one-half (½) of the alley width shall be considered as a portion of the required yard.
- 7.4.8.3 An unroofed porch shall not project into a required front yard for a distance exceeding five (5) feet.
- 7.4.8.4 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.
- 7.4.8.5 The setback requirements for side yards and/or front yards on corner lots shall not apply to any lot where the average setback on developed lots located, wholly or in part, one hundred (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.

Sec. 7.5. - Screening, lighting and space.

- 7.5.1 In any commercial or industrial district, any operation not conducted within a building, such as drive-in businesses, 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.
- 7.5.2 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.
- 7.5.3 Outdoor lighting of all types shall be directed so as to reflect away from all residential dwellings, and shall be so situated as not to reflect directly into any public right-of-way.
- 7.5.4 All screening, lighting, space, etc., shall be in good condition and appearance. The Building Inspector may cause to be removed, replaced, repaired or corrected at the owner's expense, any screening, lighting and space improperly maintained.

Sec. 7.6. - Surface drainage.

Owners, particularly developers of the larger paved areas such as those in connection with apartment complexes, shopping centers, etc., shall be responsible for increased runoff resulting from these developments which cause flood damage to neighboring property. The Building Inspector shall, in consultation with the Town 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.

Sec. 7.7. - Erosion and sediment control.

Where more than one acre of land will be disturbed for construction purposes, owners shall be required to comply with the regulations set forth in Article XI, Erosion and Sediment Control of this ordinance.

Sec. 7.8. - 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.

Sec. 7.9. - Existing covenants.

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

Sec. 7.10. - Grandfather clause.

Any use of buildings or land existing on the date of adoption of this ordinance and not in compliance with its provisions, unless elsewhere restricted by other provisions of this ordinance, shall be allowed to continue as a nonconforming use. Any land development projects in Baldwin County within the territorial and legal authority of this ordinance that are not located in a district designated for their intended use may be permitted to continue provided that:

- 7.10.1 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.
- 7.10.2 The Town reserves the right to require compliance with the requirements of this ordinance for districts in which

similar uses are permitted; and

7.10.3 Other conditions may be required by the Town due to the unique circumstances of the land.

Sec. 7.11. - 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 lines 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.

7.11.1 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 fails to function properly 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.

ARTICLE VIII. - ESTABLISHMENT OF DISTRICTS

Sec. 8.1. - General.

The Town of Elberta, Alabama, is hereby divided into zoning districts as listed and described below and as shown on the official zoning district map, for the purpose of:

- 8.1.1 Providing a residential environment free of incompatible uses, safe from natural and manmade hazards;
- 8.1.2 Promoting, where possible, planned residential, commercial, and industrial areas in appropriate locations, with appropriate standards and minimum service cost to local government;
- 8.1.3 Providing a compact, convenient urban pattern for urban areas;
- 8.1.4 Providing a level of flexibility of control sufficient to promote innovation and creativity in community development and to encourage maximum living comfort and convenience at lowest cost; and
- 8.1.5 Promoting the comprehensive plan for the town.

Sec. 8.2. - Residential districts.

- 8.2.1 *R-A Rural Residential Agricultural District.* This district provides for large, open, un-subdivided land that is vacant or is being used for agricultural, forest or other rural purposes. District regulations are 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.
- 8.2.2 *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.
- 8.2.3 *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.
- 8.2.4 *R-3 High Density Single-Family, Multi-Family and Mobile Home Park 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, apartments and mobile home parks. The intent of this district is to provide opportunity for high density 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.

Sec. 8.3. - Business districts.

- 8.3.1 *N-B Neighborhood Business District.* This district is intended to provide for limited retail convenience goods and personal service establishments in residential neighborhoods and to encourage the concentration of these uses in one location for each residential neighborhood rather than in scattered sites occupied by individual shops throughout a neighborhood. This district also provides for establishments of a professional nature and is restricted to offices and businesses which provide specific corporation functions or professional services to the general public but not the sale of wholesale goods.
- 8.3.2 *G-B 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.
- 8.3.3 *B-1 Central Business District.* This district is a more restrictive business district that is intended to provide for limited retail and personal service establishments.

(Ord. of 6-17-2003)

Sec. 8.4. - Planned unit developments.

The intent of this section is to provide an opportunity for the best use of land, protection of valuable natural features in the community, provision of larger areas of recreational open space and more economical public services. The purpose of this provision is to encourage the unified development of tracts of land by permitting, within the confines of an overall density limitation, 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. The following classes of planned unit developments are established:

- 8.4.1 *"A" Fixed Dwelling Planned Unit Developments.* A group of two (2) or more fixed dwelling structures, together with other permitted uses, on a parcel of ground of adequate size that is suitable for the intended use and in single ownership, with not less than sixty (60) feet of frontage on a public street which frontage shall serve as the principal means of access to the property.
- 8.4.2 *"B" Mobile Home Planned Unit Residential Developments.* Within the scope of the general purpose of Planned Developments, the purpose of this class is to recognize the increasing demand for the mobile home development type of residential area, and to provide for the appropriate development of such areas. It is intended to provide locational requirements and development standards which will lead to the development of stable and desirable mobile home parks, compatible with other uses in the vicinity.
- Plans may be submitted for any parcel of land suitable for the intended use that is in single ownership and zoned appropriately, for a mobile home planned unit development.
- 8.4.3 *Ownership.* In complying with the foregoing classes "A" and "B" single ownership shall be construed to include the following:
- 8.4.3.1 A person, partnership or corporation.
- 8.4.3.2 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.
- 8.4.3.3 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.

(Ord. of 6-21-2005)

Sec. 8.5. - General regulations.

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

- 8.5.1 Shall be in conformity with the City's Comprehensive Plan or portion thereof as it may apply.
- 8.5.2 Shall be consistent in all respects with the purposes and intent of this Ordinance.
- 8.5.3 Will advance the general welfare of the City and immediate vicinity.
- 8.5.4 Will provide, through desirable arrangement and design, benefits which justify the deviations from development standards which would otherwise apply.
- 8.5.5 Shall also be reviewed and approved according to the Subdivision Regulations section of this Ordinance if it is determined that the development is a subdivision according to the laws of Alabama.

Sec. 8.6. - General development regulations.

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

- 8.6.1 Provisions of residential districts as applicable, shall generally be adhered to in all Planned Unit Developments.
- 8.6.2 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.
- 8.6.3 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 such as a: patio, balcony, deck, porch, courtyard, etc.
 - This private space shall include the space occupied by such dwelling or dwelling unit, with adjoining open space assigned exclusively to such dwelling unit in addition to private parking area.
- 8.6.4 All open space not assigned to private occupancy as set forth above shall be assigned to the common use of all residents of the development, with such use assured in perpetuity as provided for above. Assignment and development of such open spaces shall be as follows:
 - 8.6.4.1 Access driveways.
 - 8.6.4.2 Landscaped areas, comprising no less than ten (10) 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.
 - 8.6.4.3 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.
 - 8.6.4.4 Private streets on common easements may be used to provide vehicular access to dwelling units on any one such drive. In all other respects, the system of vehicular circulation for a development shall be provided by streets complying in all respects with the standards of the Subdivision Regulations, Section 5.4. 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.
 - 8.6.4.5 Private streets shall be developed in accordance with the Subdivision Regulations, Section 5.4. No part of these streets shall be used for the parking of vehicles.
 - 8.6.4.6 Off-street parking spaces for dwelling units shall be provided in accordance with the Zoning Ordinance Section 10.9.3 through 10.9.9 as applicable. Such off-street parking spaces may not be counted as part of the net area in calculating density, and shall not be counted as part of the required recreation space.

Sec. 8.7. - Uses permitted.

8.7.1 *Principal Uses.*

8.7.1.1 Dwelling units of a permanent nature, for ownership or rental, including non-transient mobile homes.

8.7.1.2 Public and non-public parks and public and non-public specialized recreation centers.

8.7.2 *Accessory Uses.*

8.7.2.1 Home occupations as approved by the Council.

8.7.2.2 Facilities for use of residents of the development: for recreation, children's nursery, kindergarten, laundry or similar services, any similar facility.

8.7.2.3 Off-street parking lots or garages as approved by the Town Council.

8.7.2.4 Stores of the "local family shopping" or "convenience" nature provided for the use, primarily, of the residents, in any development comprising three hundred (300) or more dwelling units, with such commercial facilities subject to requirements in the B-1 Local Shopping District. Maximum area devoted to such commercial uses shall be one (1) acre or five (5) percent of total acreage in the project, whichever is greater.

8.7.2.5 Commercial non-retail spaces for designation uses approved by the Council.

Sec. 8.8. - Other requirements.

8.8.1 *Location Requirements.* Each Planned Unit Development shall comply with the following:

8.8.1.1 Shall be free of objectionable environmental characteristics, such as poor drainage, air pollution, undue noise, unsightliness and similar problems.

8.8.1.2 Shall be so located as to ensure a maximum of compatibility with other types of development.

8.8.1.3 Shall be provided with public or private community water and sewer facilities. No Planned Unit Development shall be approved without written certification from the appropriate utilities that adequate water and sewer services are available.

8.8.2 *Open Space, Site Size, and Density.* Around every principal building, there shall be a minimum required open space, unobstructed by any other building; there shall be a minimum size for projects; there shall be a maximum density. The following rules apply:

8.8.2.1 Minimum site size: Adequate for the intended use as determined by the Planning Commission and Town Council.

8.8.2.2 Maximum density: Fourteen (14) units per acre.

8.8.2.3 Property line setback: Forty (40) feet.

8.8.2.4 Minimum usable open space: Twenty-five percent (25%) platted as common area. This does not include roadways or storm water management facilities.

(Ord. of 9-18-2007)

Sec. 8.9. - Special requirements for fixed dwelling developments.

8.9.1 *Coverage.* The total area which may be covered by buildings shall not exceed forty percent (40%).

8.9.2 *Height.* The maximum height of buildings shall be that of the highest allowed in zoning districts abutting the proposed PUD or as recommended by the Planning Commission and approved by the Town Council.

8.9.3 *Number of Units in Townhouse or Condominium Development.* There shall be no more than one hundred (100) dwelling units in one structure.

8.9.4 *Dimensions of Open Space.* The minimum dimensions of open spaces in a Fixed Dwelling Development shall be as follows:

8.9.4.1 Major open space opposite front or rear of building:

Apartment and townhouse or condominium structures.

Minimum Feet - 40.

One- and two-family detached dwellings.

Minimum Feet - 30.

- Secondary open spaces opposite side or other walls:
- 8.9.4.2 Apartment and townhouse or condominium structures.

Minimum Feet - 20 plus 2 feet for every floor above 5 floors.

One- and two-family detached dwellings.

Minimum Feet - 20 plus 2 feet for every floor above 2 floors.

(Ord. of 9-18-2007)

Sec. 8.10. - Special requirements for mobile home developments.

8.10.1 *Park or Subdivision Size, Density, Lot Width.*

Minimum Site: Adequate for the intended use as determined by the Planning Commission and Town Council.

Maximum Density: Ten (10) spaces per net residential acre exclusive of street walks and open space, one (1) per lot or space.

Minimum Site Width on Major Traffic Artery: Sixty (60) feet with twenty (20) feet landscaped buffer between any public road and any dwelling unit.

8.10.2 *General Development and Service Requirements.*

The following shall apply:

8.10.2.1 Water, sewage, garbage and trash disposal shall meet all standards set forth by the County Health Department.

8.10.2.2 The mobile home area and the mobile homes and other structures therein shall meet all local and state standards pertaining to fire regulations and control and comply with electrical, plumbing and any other local codes.

8.10.2.3 All lots shall have access to roads or streets that meet or exceed design standards as outlined in the Subdivision Regulations, Section 5.4.

8.10.2.4 All streets and public driveways within the subdivision shall be lighted at night with electric lamps as required by the City.

8.10.2.5 There shall be set aside a recreational area or areas within the subdivision which shall be suitable restricted to such use. The size of the recreational area shall be compatible with the size of the subdivision and shall be subject to the recommendation of the Planning Commission and Town Council approval.

8.10.2.6 A buffer strip may be required by the Planning Commission if the location of the subdivision is such that a buffer strip would be desirable for abutting uses.

8.10.3 *Individual Lot and Structure Requirements.* The following shall apply:

8.10.3.1 Each mobile home lot shall have a minimum area of four thousand (4,000) square feet, and have width measured at right angle to the side line of not less than fifty (50) feet for irregularly shaped lots, provided that no lot shall have less frontage on its access street than required for a driveway allowing maneuverability of the home onto the lot. All corners of each lot shall be marked with iron pipe, or other permanent type marker.

8.10.3.2 Mobile homes shall be located on lots with a minimum setback from access street of twenty-five (25) feet and ten (10) feet from any other lot line, provided that no mobile home shall be closer to any other mobile home than fifteen (15) feet unless clustered in appropriate manner, and shall comply with 8.10.1 and/or 8.10.2.

8.10.3.3 Each mobile home space shall be improved with one patio of concrete, or other suitable impervious material, having a minimum area of one hundred fifty (150) square feet.

8.10.3.4 Permanent structures located within any mobile home lot shall be used for storage purposes only, and shall have a maximum area of eighty (80) square feet and shall be located not less than six (6) feet from any mobile home, nor

closer to any lot lines than provided in the residential district in which it is located.

8.10.3.5 No permanent additions of any kind shall be built onto, or become a part of any mobile home; provided, however, that this provision shall not be construed to prohibit the addition to the mobile home of a patio cover or carport cover if same is not permanently attached to the ground. Such patio covers or carport covers shall be similar in appearance and design to the mobile home, nor shall this provision be construed to prohibit tie-downs, which are required.

8.10.3.6 All mobile homes shall be secured by tie-downs for protection from wind damage to units and adjacent property, in accordance with local and/or state statutes or, if there are no statutes requiring tie-downs, in accordance with accepted industry standards for the area.

NOTE: A Mobile Home Park/Manufactured Home Subdivision as defined in Section 6.2 of the Zoning Ordinance may adhere to the Zoning Ordinance Section 10.2 through 10.3 for development standards.

8.10.4 *Application for Zoning.* The following shall apply:

8.10.4.1 Application to the Planning Commission for the use of land as a mobile home subdivision under this Ordinance shall be accompanied by a development plan showing compliance with the requirements of this Ordinance.

8.10.4.2 The initial application shall be in writing, signed by the applicant, and shall include the following:

- a. Location and legal description of area, indicating uses of surrounding areas.
- b. Detailed map of area with dimensions, contours at two (2) foot intervals and area drainage.
- c. Plans and arrangements of access streets and connection with traffic artery, lot layout, recreation areas and facilities, buffer zone and proposed green belt planting as screening.
- d. Plans for the proposed sewage, drainage, street paving and such other information as may be required by the Planning Commission.
- e. Plans and specifications of all buildings, improvements and facilities to be constructed within the mobile home subdivision.
- f. Four (4) copies of the application and all accompanying plans and information shall be filed with the City Clerk in Compliance with the requirements of Article XIII, Section 13.2 of this Ordinance.

8.10.5 *Conflict with Other Regulations.* Whenever these regulations require or impose more restrictive standards than are required in or under any other statute or ordinance, these regulations shall govern. Whenever the provisions of any other statute or ordinance require more restrictive standards than are required by this Ordinance the provisions of such statute or ordinance shall govern.

Sec. 8.11. - Review procedure for all planned developments.

8.11.1 The developer shall schedule an initial planning meeting with the Planning Commission.

8.11.2 For the initial planning meeting, a Sketch Plan of the proposed project shall be furnished by the developer.

8.11.3 If, during the initial meeting, it is determined that project is also a subdivision as defined by Alabama, the developer shall comply with all requirements of the Subdivision Regulations.

8.11.4 If all land in the project is to remain in one ownership, as defined hereinbefore, the following points should be discussed with the developer:

8.11.4.1 The present uses and character of the area.

8.11.4.2 The road and street system, especially peripheral streets and proposed internal circulation patterns as related to requirements by Planned Unit Developments.

8.11.4.3 Public and private open areas and parks and trails.

8.11.4.4 Public utilities and services or their counterpart such as water, sewer, fire protection, surface drainage, school facilities, if any.

8.11.4.5 Types of structures to be built.

8.11.4.6 Proposed uses to be developed.

- 8.11.5 Application Procedures for All Planned Unit Projects. Upon completion of initial discussions, the developer proposing a plan development should complete an application form requesting initial general review and approval of the project by the Planr Commission. This stage of review is called the Master Sketch Plan. The Master Sketch application shall include: proposed us letters from the utility providers, footprints to include building and street layouts (indicating public or private), storm water areas, topographic map showing existing and proposed final grade, list of adjacent property owners. No construction plans required at this stage. A traffic study or other such items may be requested by the Planning Commission or Town Council pr actions on the rezoning request. A public hearing shall be held by the Planning Commission on the Master Sketch Plan. The Commission shall forward a recommendation on the Master Sketch Plan to the Town Council for a rezoning request pursua Section 12.5 of the Zoning Ordinance. The following rules apply to all initial applications:
- 8.11.5.1 All sketches for planned development projects shall be submitted to the Planning Commission for review to ascertain that the plan for any project complies with the conditions set forth in this section, Section C, and other applicable sections of this Ordinance.
- 8.11.5.2 The following items shall also be submitted on the Master Sketch Plan:
- a. A letter of transmittal officially submitting the proposal for development, signed by the developer or his authorized representative. If submitted by other than the current owner of the property, the letter should include or be accompanied by satisfactory evidence of the existence of a purchase or lease agreement or other instrument, so as to ensure that the current owner is in agreement with the development as proposed.
 - b. Four (4) copies of a scaled general site development plan of the entire proposal showing the following information:
 1. Boundary lines of the property, including dimensions.
 2. Location and names of all public streets adjoining or traversing the site. In the event no public street now adjoins the site, sufficient description by metes and bounds to identify the location of the site.
 3. Identification of the name, plat book, and page number of any recorded subdivision comprising all or part of the site.
 4. Identification and location of any existing easements, water courses, lakes or other significant natural features upon the site.
- 8.11.6 The Preliminary Plan. The developer, after review and approval of the rezoning request by the Town Council, shall prepare and submit a Preliminary Plan for review by the Planning Commission.
- 8.11.6.1 A public hearing shall be held by the Planning Commission on the preliminary plan. Any changes from the Master Sketch Plan should be noted and sent with recommendations from the Planning Commission to the Town Council for review and approval.
- 8.11.6.2 Maps and Written Statements. Maps and written statement setting forth the details of the proposed development shall be included in the Preliminary Plan. The maps must show enough of the area surrounding the proposed development to demonstrate the relationship of the Planned Development to the adjoining uses, both existing and those proposed by the developer. The maps shall be in a general schematic form and contain the following information, and as appropriate, the facilities are to be identified as to whether they are to be public or private:
- a. Maps should include the following information:
 1. The approximate topography at two foot intervals;
 2. Proposed land uses and the approximate location of existing and proposed buildings and other structures and uses adjacent to the site;
 3. The character and approximate density of the dwellings;
 4. The approximate location of streets and rights-of-way, walkways, and parking facilities;
 5. Public uses including schools, parks, playgrounds and other open spaces;
 6. Number of parking spaces;
 7. Amount of impervious surface;
 8. Generalized drainage plan;

9. Development staging, if appropriate.
- b. The written statements shall contain an explanation of:
 1. The character of the proposed development and the manner in which it has been designed to take advantage of the Planned Development Concept;
 2. The proposed sewage disposal facilities;
 3. Water supply and surface drainage provisions;
 4. Evidence of adequate financial stability to complete the proposed project;
 5. The present ownership of all of the land included within the Planned Development Project;
 6. The method proposed to maintain private common open areas, buildings or other facilities, including copies of all legal documents necessary to accomplish this;
 7. The general indication of expected schedule of development;
 8. The intrinsic benefits and extrinsic benefits the project will provide the municipality and the vicinity.
- 8.11.6.3 After a public hearing, the Council should review and approve the Preliminary Plan as submitted or with proposed modifications. Although the property was granted rezoning after the Master Sketch Plan was approved by the Council, the rezoning shall revoke and revert to the original zoning of the land if the Final Plan is not approved by the Town Council.
- 8.11.6.4 In the event approval has been conditioned on modification to the plan, then such Preliminary Plan approval shall not be effective until the developer has filed written consent to the modifications as required.
- 8.11.6.5 If the developer wishes to develop the Planned Development Project in stages, the Final Plan submitted for review and approval may cover only the first stage to be developed, but succeeding stages of the Final Plan must be in substantial conformance to the approved Preliminary Plan.
- 8.11.6.6 If a Final Plan covering at least a portion of the area in the approved Preliminary Plan has not been filed within one (1) year, the Preliminary Approval shall expire; the approval may, however, be extended for additional periods not in the excess of six (6) months by the Town Council when such an extension can be justified.
- 8.11.7 The Final Plan provides a specific and particular plan by which development and construction will take place. The Final Plan serves as the plan on which the Planning Commission and local government base a decision.
 - 8.11.7.1 In addition to those items specified for the Preliminary Plan, the Final Plan must include:
 - a. A map showing:
 1. Street location and nature of improvement;
 2. Lot lines and lot designs;
 3. The landscaping and tree planting plan;
 4. Surface drainage system;
 5. Peripheral setback (40 feet); and
 6. All easements.
 - b. Areas proposed to be conveyed, dedicated, or reserved for parks, parkways, playgrounds, school sites, public buildings and similar public and semi-public uses.
 - c. A plot plan for each building site, except single-family lots and the common open area, showing the approximate location of all buildings, structures, and improvements and indicating the open spaces around buildings and structures.
 - d. Elevation and perspective drawings of all typical proposed structures and improvements except single-family residences and their accessory buildings. The drawings need not be in construction detail.
 - e. A development schedule indicating:
 1. The approximate date when construction of the project can be expected to begin;
 2. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin;

3. The approximate dates when the development of each of the stages in the development will be completed;
 4. The area and location of common open space that will be provided at each stage.
- f. The following plans and diagrams will be provided when the Planning Commission finds that the Planned Development creates special problems of traffic or parking:
1. An off-street parking and loading area plan;
 2. A circulation diagram indicating the proposed movement of vehicles, goods and pedestrians within the Planned Development and to and from existing thoroughfares.

Any special engineering features and traffic regulation devices needed to facilitate or ensure the safety of this circulation pattern must be shown.

8.11.7.2 The plan shall be accompanied by written legal documents on behalf of the owner, his heirs, successors and assigns that shall include:

- a. Provisions that the proposed development, as shown on the plans and as set forth in specifications, will be completed in every detail within such time period as may be agreed upon by the Planning Commission;
- b. Provisions that all land improvements intended for the common use of all residents, including drives, walks, parking areas, recreation facilities and equipment and all landscaped or other common open space will be maintained in perpetuity, including such servicing as may be required for the use of such land improvements;
- c. Provisions that no future changes in the development shall be made which would encroach upon the land used to comply with the requirements of this Article as to density, open space, yards, courts, vehicular access, automobile parking, building coverage or other outdoor requirements;
- d. Provisions that all easements for private drives, utility lines and similar purposes shall be open at all times for access by publicly employed personnel and equipment for police and fire protection, for inspection of utility systems and for any other public purpose;
- e. Articles of incorporation and By-Laws for the formation of a Property Owners' Association for the PUD;
- f. A Declaration of Restrictions and Covenants which shall include agreements and provisions to govern the use, maintenance and continued protection of the PUD and all of its common areas. Such declarations shall be consistent with Fannie Mae, Freddie Mac or other similar Federal or State requirements;
- g. A written legal opinion from the Applicant/Owner's Attorney stating that the above legal documents comply with applicable Federal and State Laws.

8.11.7.3 Final Plan Approval. The following shall govern approval of a Final Plan.

- a. The Planning Commission shall compare the Final Plan with the Preliminary Plan and with the standards set forth in this Section to assure that the Final Plan conforms to the standards set forth in the Section. The Planning Commission may place conditions upon the granting of approval which, in its judgments, will ensure conformance to the plan as approved.
- b. The approval of the Final Plan or any stage of it shall be valid for a period of one (1) year following the date of such approval. At its discretion, the Planning Commission may extend such approval for additional six-month periods.
- c. Factors to be considered by the administrative staff and the Planning Commission in reviewing any Planned Unit Development are that the development is in harmony with the Land Use Plan and with the character of the neighborhood and will provide an overall density and standard of open space as required by this Ordinance.
- d. The Final Development Plan or any stage of the Planned Development shall not be approved if the average of the allowable dwelling units per acre, up to and including the stage which is to be approved, exceeds by more than 10% the average number of dwelling units per acre which is allowable for the entire Planning Development.
- e. A report of its findings and recommendations on a proposed Planned Unit Development shall be prepared for and acted on by the Planning Commission.

Such report shall constitute a recommendation to the Council for Action should rezoning be required.

- f. Upon final approval and after all conditions have been met, the Commission shall approve the recording of the Final Development Plan in the deed records of the County. When no parcels are to be sold, the developer will process and have recorded the subdivision plat in the manner designated by the Commission.
- g. Substantial Conformance. The determination of substantial conformance between the Preliminary Plan and the Final Plan shall be at the discretion of the Planning Commission. Variation in conformance is intended solely to facilitate the minor adjustments which may be necessary as the plans approach a final construction stage. The Commission may refuse to grant approval of substantial conformance if, in their opinion, the adjustments are being used to significantly modify the approved plan.

8.11.7.4 Site Improvements. The developer, at his option, may place street improvements, sidewalks, utilities and other permanent site improvements after Preliminary Plan approval or stake the location of the buildings and make app for building permits. Under no circumstances, however, will any building permit be issued until final approval has been granted and the necessary portions of the Final Plan recorded. The placing of improvements will not obligate the local government to approve such improvements on the Final Plan if not in conformance with the terms of this Section.

8.11.7.5 Public Record. The Final Plan is the permanent public record of the Planned Development and will be the manner in which the development is constructed as provided herein.

8.11.7.6 Contents. The final plan shall contain, in final form, the information required above. In addition, the following will apply:

- a. If parcels of land are to be sold, then a subdivision plat in the form prescribed by this Ordinance shall be filed for approval in the appropriate manner.

(Ord. of 9-18-2007)

Sec. 8.12. - Industrial district.

8.12.1 *M-1 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. Industrial parks should be encouraged. Locations should be in accordance with comprehensive plans and special review is required for some.

Sec. 8.13. - Flood hazard areas.

8.13.1 The Town of Elberta has adopted the Flood Insurance Rate Maps for Baldwin County, Alabama, as hereafter from time to time amended, for all flood plain areas within the corporate limits. Said maps are available for review at the Baldwin County Building Department.

(Ord. of 6-17-2003)

ARTICLE IX. - DISTRICT REQUIREMENTS

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

Sec. 9.1. - General residential district requirements.

The following provisions apply, unless provided for elsewhere in this ordinance, to all residential districts:

- 9.1.1 *Uses Permitted.* Customary accessory structures; satellite receiving dishes, gardens, playgrounds, parks; public buildings, schools and libraries; agriculture or farming, including horticulture. Plant nurseries, market gardening, field crops and occupations as defined in Article X, Section 10.5.4.
- 9.1.2 *Uses Permitted by Special Exception.* Certain public and semi-public uses are essential and desirable for the general convenience and welfare but may not fit compatibly within residential neighborhoods. The following public and semi-public uses may be permitted within residential districts by special exception when it is established through site plan review that the location, design, and proposed activities will not adversely affect the public health, safety, morals, and general welfare of the surrounding neighborhood. Uses permitted by special exception in residential districts are:
- 9.1.2.1 Church schools and private or parochial elementary and high schools having a curriculum approximately the same as ordinarily given in public elementary and high schools and meeting all standards of the State Board of Education for instruction and site size.
- 9.1.2.2 Churches, synagogues, and other places of worship including parish houses, rectories, and other facilities normally incidental to places of worship but excluding funeral homes.
Cultural activities not carried on as a gainful business, including art galleries, libraries, and museums.
- 9.1.2.3 Convalescent and nursing homes for the aged.
- 9.1.2.4 Recreation facilities, country clubs, community centers, and clubs drawing substantial numbers of users from the immediate neighborhood in which they are located, excluding residential accommodations and any activity carried on as a gainful business other than incidental concessions.
- 9.1.3 *Uses Prohibited.* Any use not permitted or permitted by special exception except as otherwise determined under Section 9.27; commercial and industrial uses such as garages, repair or storage yards, warehouses, buildings used as correctional institutions, and industrial type operations of any kind.
- 9.1.4 *Requirements for Lot Area, Lot Width, Coverage and Other Factors.*
- 9.1.4.1 Public and semi-public buildings.
- a. *Minimum lot area and lot width.* None specified only that the lot be large enough to provide the yards specified herein.
 - b. *Yard regulations.*
 1. *Front yard.* Each lot shall provide a front yard with a minimum depth of forty (40) feet.
 2. *Side yard.* Each lot shall have a side yard of a minimum of thirty-five (35) feet on each side.
 3. *Rear yard.* Each lot shall have a rear yard with a minimum depth of thirty-five (35) feet.
 - c. *Maximum building height.* No structure shall exceed a height of thirty-five (35) feet, except a church may have a maximum height of fifty (50) feet, provided that one (1) foot shall be added to all minimum yard requirements for each additional foot of height in excess of thirty-five (35) feet. (Does not apply to church sanctuary.)
 - d. *Maximum building coverage.* The maximum land covered by a building shall be fifty (50) percent of the total lot area; a minimum of twenty (20) percent of the lot area shall be maintained as a landscaped open area. (Does not apply to PUD unless and except to publicly owned structures inside of PUD.)

Sec. 9.2. - Table of permitted uses.

The uses permitted in each of the several zoning districts are listed in this table in four (4) categories, as follows:

- 9.2.1 *Uses by Right.* Uses in the table identified by (R) are permitted by right, subject to the conditions specified in the table or elsewhere in this ordinance.
- 9.2.2 *Uses Requiring Planning Approval.* Uses in the table identified by (P) are permitted upon approval by the Elberta 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.

- 9.2.3 *Special Exceptions.* Uses in the table identified by (S) are subject to the same approval of location as uses requiring planning approval; in addition, these uses are subject to approval of the Board of Adjustment in accordance with the provisions of Article XII, Sections 12.3 and 12.4 of this ordinance.
- 9.2.3.1 Uses in a PUD shall be subject to Town Council approval after recommendation by the Planning Commission.
- 9.2.4 *Council Approval.* Uses in the table identified by (CA) are subject to Town Council approval after review by the Planning Commission.
- 9.2.5 *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.
- 9.2.5.1 The review of oil and gas exploration and production activities under the requirements of this ordinance shall not duplicate the regulatory activities of the Alabama Department of Environmental Management, the U.S. Army Corps of Engineers, or the Alabama State Oil and Gas Board.
- The Planning Commission shall permit oil and gas exploration and production in any zoning district following administrative review and assurance that all required federal and state permits have been obtained and that adequate environmental safeguards and guarantees required under the permits have been addressed.
- 9.2.5.2 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.
- 9.2.6 Any use requiring planning approval is subject to review and approval of the Planning Commission. Each application to the Planning Commission for approval must be accomplished by a site plan prepared by the applicant or his agent. The Planning Commission shall review the application at its next meeting and take into consideration all existing regulations and ordinances of the Town as well as recommendations from the Zoning Administrator, the Town Engineer, the Building Inspector, the health officer and any other such local officials. The Planning Commission may approve the use request as is; it may approve it with conditions; or it may deny it.
- 9.2.7 Any use permitted by special exception is subject to review and approval of the Board of Adjustment. Each application to the Board of Adjustment for approval of a use permitted by special exception shall be accompanied by a site plan which shall first be reviewed by the Planning Commission. The Board of Adjustment shall consider the recommendations of the Planning Commission, the Town Engineer and the Building Inspector and make them a part of the record of any public hearing held on an application for a special exception, prior to making a decision on the application. If the decision of the Board of Adjustment is not consistent with such recommendations, the minutes of the meeting at which such decision is made shall set forth the particular reasons for deviating from such recommendations.
- 9.2.8 In any case where a requested use is not specifically referred to in the Table of Permitted Uses, Section 9.3 of this ordinance, its status shall be determined by the Planning Commission by reference to the most clearly analogous use or uses that are specifically referred to in the table of Permitted Uses. When the status of a use has been so determined by the Planning Commission, such determination shall thereafter have general application to all uses of the same type and shall be added to the Table of Permitted Uses.
- 9.2.9 In general, any higher use may be permitted with Planning Commission approval 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 Section 7.4, Nonconformance, of this ordinance.
- 9.2.10 A site plan shall be required for all new commercial structures and shall be accomplished by the Planning Commission to assure compliance with the provisions of this ordinance in conformity with its purpose as stated in Article I. Site plan approval must be granted prior to commencing any site preparation and/or construction

activities.

- 9.2.10.1 Upon approval of the site plan, either as submitted or with changes and/or special conditions required by the Planning Commission, the Building Inspector may issue a building permit for a portion or all of the proposed development; provided that the application is in compliance with all applicable Town, County, State and Federal requirements.
- 9.2.10.2 The Planning Commission may waive certain requirements contained in Section 9.2.9.3 of this Ordinance if, in its opinion, the requirements are not essential to a proper decision on the project; or they may supplement the list with other requirements deemed necessary to clarify the nature of the proposed development.
- 9.2.10.3 An application for site plan approval shall include the following information unless some or all of these requirements are waived by the Planning Commission under Section 9.2.9.2 of this Ordinance.
 - a. The location and size of the site including its legal description and a current certified survey.
 - b. A vicinity map showing the site relation to surrounding property.
 - c. The recorded ownership interests and the nature of the developer's interest, if the developer is not the owner.
 - d. The relationship of the site to existing development in the area including streets, utilities, residential, and commercial development, and physical features of the land including significant ecological features. This information may be combined with requirements for the vicinity map specified in Section 9.2.9.3b above.
 - e. The density or intensity of land use to be allocated to all parts of the site together with tabulations by acreage and percentages thereof itemized by use and density.
 - f. The location, size and character of any common open space, commonly owned facilities and form of organization which will own and maintain any common open space and such facilities.
 - g. The use and maximum height, bulk and location of all buildings and other structures to be located on the site.
 - h. The substance of covenants, grants of easements or other restrictions which will be imposed upon the use of the land, buildings and structures, including proposed easements or grants for public utilities or other purposes.
 - i. The provisions for disposition of open space, including tree protection, landscaping provisions and buffering requirements.
 - j. In the case of plans which call for development over a period of years, a schedule showing the proposed times within which applications for building permits are intended to be filed.
 - k. Any additional data, plans or specifications which the applicant or the Town believes is pertinent and which will assist in clarifying the application including, but not limited to plans for: Screening, Lighting and Open Space; Surface Drainage; and Water and Sewer Connections.
 - l. A traffic impact analysis and corrective measures to address detrimental conditions brought about by the development.
 - m. Architectural renderings, elevations and representative floor plans in preliminary form.
 - n. The location and size of all signs to be located on the site. In the event that a sign is 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 this ordinance.

(Ord. of 6-21-2005)

Sec. 9.3. - Table of permitted uses and conditions.

	R-A	R-1	R-2	R-3	N-B	G-B B-1	M-1/PUD
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Accessory buildings and uses, including home occupations and 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 R	/CA
Agriculture and related farming operations, including horticulture, plant nurseries, market gardening, field crops, and orchards.	R	S	S				/CA
Air conditioning sales and service.						R	/CA
Airport and/or crop dusting-spraying service; need not be enclosed structure.	R	R	R		R	R	/CA
Ambulance/EMS service.					R	R R	/CA
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:					S	S	/CA
Amusement park.						S	S/CA
Amusement arcade, kiddieland.						S	/CA
Archery range.						P	/CA
Baseball batting range.						R	/CA
Billiard or pool hall.						S	/CA
Bowling alley.						S	/CA
Fairground, circus or carnival.						S	/CA
Golf course.						S	/CA
Golf course, miniature.						P	/CA
Golf driving range.						P	/CA
Pistol or rifle range.						S	/CA
Racquet ball or tennis courts, indoor.					R	R	/CA

Skating rink.						R P	/CA
Tennis courts, outdoor; need not be enclosed within a structure.	P	P	P	P	P	P	/CA
Animal clinic/kennels for small animals; need not be enclosed within a structure.	P				S	S	/CA
Antique store, including repairing, restoration and refinishing.				S	R	R R	/CA
Apparel and accessory store.					R	R R	/CA
Appliance store.					R	R R	/CA
Apothecary, limited to the sale of pharmaceuticals and medical supplies.					R	R R	/CA
Art museum.		S	S	S	P	R R	/CA
Art gallery/supplies.				S	R	R R	/CA
Asphalt products manufacture.						S	/CA
Auditoriums, stadiums, coliseums, dance halls and other such places of public assembly.	P	P	P	P	R	R P	/CA
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.					S	S	/CA
Automobile manufacture.						S	/CA
Automobile parts sales, except used parts.					R	R R	/CA
Automobile storage, including off-street parking lots; need not be enclosed structure.		S	S	S	R	R	/CA
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 stationery window within 100 feet of a residential district.					S	R	/CA

Automobile and truck repair garage, mechanical and body.					S	R	/CA
Automobile and truck sales and service; but not including commercial wrecking, dismantling, or auto salvage yard; need not be enclosed within a structure.						R	/CA
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.					S	R	/CA
Bait store or sales (live bait); need not be enclosed structure.					P	R	/CA
Bakery, retail.				S	R	RR	/CA
Bakery, wholesale.						S	/CA
Bank, including drive-in bank.				S	R	RR	/CA
Barber shop or beauty parlor and supplies (retail).				S	R	RR	/CA
Barber and beauty supplies and equipment sales.				S		S	/CA
Bed and Breakfast.	S	S	S	S	R	RR	/CA
Bicycle, lawnmower sales, service and repair.					R	RP	/CA
Bird and wildlife sanctuary.	P	P	P	P	P	P	/CA
Blueprinting and Photostatting shop.					R	RR	/CA
Boat construction, storage, service and repair, major; need not be enclosed within a structure.						P	R/CA
Boat sales, accessories and service.						R	/CA
Boat storage, service and repair, minor. May include dry storage in an enclosed structure.						R	/CA
Book store.				S	R	RR	/CA

Bottling works.						S	/CA
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	/CA
Bus and railroad terminal facilities.					S	P	/CA
Business machines sales and service.					R	R P	/CA
Business school or college/university.		R	R	R	R	R R	/CA
Butane or other liquefied petroleum gas products storage and sales; need not be enclosed within a structure.						R	/CA
Cabinet or carpenter shop.						P	R/CA
Cafes, grills, lunch counter and restaurant, but not including night club, bar tavern, and drive-in restaurant.				S	R	R R	/CA
Camera and photographic supply store.					R	R R	/CA
Candy, nut and confectionary store.					R	R R	/CA
Canvas products manufacture.						P	/CA
Carting, express, crating, hauling, storage.						S	/CA
Catering shop or service.				S	R	R R	/CA
Cemetery.	S	S	S	S	S	S	/CA
Chemicals Manufacture or processing (heavy, industrial).						S	/CA
Churches, related accessory buildings, campgrounds with recreational facilities and housing/dormitories, etc.	R	S	S	S	R	R P	/CA
Clay and clay products manufacture; need not be enclosed within a structure.						S	/CA
Clinic, dental, medical or psychiatric for humans.					R	R R	/CA
Clothing manufactures.						S	/CA

Club or lodge, fraternal, not for profit, civic, charitable or similar organization, public or private.					P	R R	/CA
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.	S	S	S	S	S	S	/CA
Cold storage plant.						S	/CA
College sorority or fraternity house.					S	S	/CA
Concrete and concrete products manufacture; need not be enclosed within a structure.						S	R/CA
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.						S	R/CA
Convenience store.				S	R	R	/CA
Dairy equipment sales.						R	/CA
Dairy products sales. (Ice Cream Parlor only in B-1.)						R R	/CA
Delicatessen.				S	R	R R	/CA
Department store.					R	R R	/CA
Drive-in restaurant.					S	R P	/CA
Drug store.				S	R	R R	/CA
Dry cleaning shop, including self-service.					R	R P	/CA
Dry goods or fabric store.					R	R R	/CA
Dwelling, one-family.	R	R	R	R		P P	/CA
Dwelling, two-family.			R	R		P P	/CA
Dwelling, multi-family.				R		P P	/CA
Electric power generating plant.	S	S	S	S	S	S	/CA

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.		S	S		S	S	/CA
Electric repair shop.					R	R R	/CA
Electric supply store.					R	R P	/CA
Elevator maintenance service.						R P	/CA
Employee credit union office.				S	R	R R	/CA
Exterminator service office.						R R	/CA
Farm and garden equipment and supply store.						R P	/CA
Farmers' markets.						R R	/CA
Fix-it shop, including small appliance repair.						R R	/CA
Fixture sales.						R P	/CA
Floor covering sales and service.					R	R R	/CA
Floral shop.				S	R	R R	/CA
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.						S	R/CA
Food products processing plant.						S	R/CA
Food products, wholesale storage and sales.	S					P	/CA
Freight depot, railway or truck.						P	R/CA
Frozen food manufacture and packaging.						S	R/CA
Fruit and produce, retail.	S			S	R	R R	/CA
Funeral home, mortuary or undertaking establishment.					R	R P	/CA
Furniture and home furnishing store, including office furniture and equipment.					R	R R	/CA

Furniture repair, including upholstering and refinishing.						R R	/CA
Gas regulator station.						R	/CA
Gift shop.					R	R R	/CA
Glass products manufacture.						S	R/CA
Grocery store, retail.					R	R P	/CA
Gymnasium, commercial.					R	R	/CA
Hardware store, retail.					R	R R	/CA
Hardware store, wholesale.						S	/CA
Hatchery, poultry or fish.	S				P	P	/CA
Heating and plumbing equipment, supplies and service.						R P	/CA
Hiking and nature trail.	R	R	R	R	R	R	/CA
Hobby shop and supply store.					R	R R	/CA
Home gardens.	R	R	R	R			/CA
Home occupation.	S	S	S	S	R	R	/CA
Hospital, clinic, convalescent or nursing home, extended care facility or sanitarium for humans.		S	S	S	S	S	/CA
Hotel, motel, or tourist home.				S	P	P P	/CA
Ice plant.					P	P	R/CA
Industrial park.						P	R/CA
Innovative Design.	P	P	P	P	P	P	P/CA
Institution for children or the aged, day care.		S	S		R	R	/CA
Interior decorating shop.					R	R R	/CA
Kennel.	P					R	/CA

Kindergarten, playschool or day care center (public) 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.		R	R	R	R	R P	/CA
Kindergarten, playschool or day care center (private) provided that all activities are carried on in an enclosed building or fenced yard and that all applicable federal, state and local requirements are met.		S	S	S	S	S S	/CA
Laboratory, scientific.						S	R/CA
Laboratory, medical or dental.						R	R/CA
Landscape garden sales; need not be enclosed within a structure.				S		R P	/CA
Laundry, self-service.				S	R	R P	/CA
Laundry and dry cleaning pick-up station.					R	R P	/CA
Laundry and dry cleaning plant.						S	R/CA
Laundry, linen supply or diaper service.					P	R P	/CA
Leather goods or luggage store.					R	R R	/CA
Library.		R	R	R	R	R R	/CA
Liquor, wine and beer sales not to be consumed on premises and meeting local and state requirements.					R	R R	/CA
Livestock (cattle, horses, sheep and goats).	R	S	S	S	S	S	/CA
Livestock (swine).	S					S	/CA
Loan office.					R	R R	/CA
Locksmith.					R	R R	/CA
Lodging, boarding or rooming houses.		S	S	S	R	R P	/CA
Lumber yard and building materials; need not be enclosed within a structure.						R	/CA
Machine shop.						S	R/CA

Machinery, tools and construction equipment, sales and service.						S	R/CA
Mail order house.					R	R P	/CA
Manufacturing, extractive, including all natural mineral deposits except oil and gas.						S	/CA
Manufacturing, repair, assembly or processing establishments of a light industrial nature, including, but not limited to the following:							/CA
Automobile, assembly.							R/CA
Clothing and garment manufacturing.							R/CA
Food products processing and packaging.							R/CA
Glass products manufacturing.							R /CA
Laboratories for testing materials, chemical A168 analysis and photographic processing.							R/CA
Metal products and manufacturing.							R /CA
							/CA
Musical instruments and parts manufacturing.							R/CA
Paper products manufacturing.							R/CA
Plastics manufacturing.							R/CA
Scientific, optical and electronic equipment assembly and manufacturing.							R/CA
Shipbuilding and repair yard; need not be enclosed within a structure.							R/CA
Souvenirs and novelties manufacturing.							R/CA
Surgical and dental supplies manufacturing.							R/CA
Toys, sporting goods and athletic goods manufacturing.							R/CA
Marina.		S	S	S	S	R	R/CA

Marine stores and supplies.						R	/CA
Metal products fabrication.						S	R/CA
Modular structure.						P P	P/CA
Manufactured home subdivision.				P			/CA
Motorcycle sales, service and repair.						R	/CA
Music store.				S	R	R R	/CA
Natural preservation areas including bird and wildlife sanctuaries, nature and hiking trails, outdoor camping sites and similar uses.	P	P	P	P	P	P	/CA
News stand.				S	R	R R	/CA
Nightclub, bar, tavern and cocktail lounge when separate from restaurant.					R	R P	/CA
Office.				S	R	R R	/CA
Office equipment and supplies, retail.					R	R P	R/CA
Office equipment and supplies, manufacture.						S	/CA
Office warehouse.						S	/CA
Oil and gas exploration and production activities.						S	/CA
Oil well equipment, supplies and machinery; need not be enclosed within a structure.						S	/CA
Optician.				S	R	R R	/CA
Paint and wallpaper store.					R	R R	/CA
Painting and decorating contractor.			S	S	R	R P	/CA
Paper supplies, wholesale.						P	/CA
Park or playground including recreation centers; need not be enclosed within a structure.	P	R	R	R	R	P P	/CA
Pawn shop.					R	R R	/CA

Pet shop.				P	R	R R	/CA
Petroleum and petroleum products, manufacture, processing or storage.						S	R/CA
Photographic studio and/or processing.				P	R	R R	/CA
Picture framing and/or mirror silvering.					R	R R	/CA
Pipe storage; need not be enclosed within a structure.						S	/CA
Planned Unit Development.	CA	CA	CA	CA	CA	CA	CA/CA
Plastic fabrication.						S	R/CA
Plumbing shop.				P	P	R P	R/CA
Police substation, including Highway Patrol.	P	R	R	R	R	R R	/CA
Poultry/livestock raising, small animal breeding; need not be enclosed within a structure. Not chicken brooder.	S	S	S				/CA
Post office.	R	R	R	R	R	R R	/CA
Printing, blueprinting, bookbinding, photostating, lithographing and publishing establishment.						R P	R/CA
Public utility production and maintenance buildings with proper screening.				S	S	S	R/CA
Public utility substation with proper screening.	S	S	S	S	S	S	R/CA
Radio and television station and transmitting tower (commercial).						S	P/CA
Radio and television sales, service and repair store.					R	R R	/CA
Recreational Vehicle Park.				P		P	/CA
Reducing, exercise, karate, gymnastic or other body fitness type salon.					R	R R	/CA
Restaurant.						R P	/CA
Restaurant supplies and sales.						R P	/CA

Riding academy; need not be enclosed within a structure.	R					P	/CA
Roofing and sheet metal shop.						S	/CA
Rooming house and boarding house.		S	S	S	R	R P	/CA
Rug and/or drapery cleaning service.					R	R P	R/CA
Sand and gravel storage yard; need not be enclosed within a structure.						S	R/CA
Sawmill, planing mill or timber storage.						S	/CA
Schools, public elementary and/or secondary meeting the requirements of the education laws of the State of Alabama.	R	R	R	R	R	R	/CA
Schools, private, elementary and/or secondary meeting the requirements of the education laws of the state of Alabama.	S	S	S	S	S	S	/CA
Seafood store, retail.					R	R R	/CA
Sewage disposal plant; need not be enclosed within a structure.	S	S	S	S	S	S	S/CA
Shoe repair shop.				S	R	R R	/CA
Shoe store, retail.				S	R	R R	/CA
Sign shop.						R P	R/CA
Silviculture and related forestry operations; need not be enclosed within a structure.						S	R/CA
Small engine repair shop.					S	R P	/CA
Sporting goods store.					R	R R	/CA
Stockyard; need not be enclosed within a structure.	S					S	R/CA
Stone monument sales, retail.					R	R P	/CA
Studio for professional work or teaching of fine arts, such as photography, drama, speech, painting.					R	R R	/CA
Studio for dance or music.		S	S	S	R	R R	/CA
Surgical or dental supplies manufacture.				S		S	R/CA

Surgical or dental supplies retail.					R	R R	/CA
Tailor shop.				S	R	R R	/CA
Taxi terminal: storage and repair of vehicles.					S	R	/CA
Taxidermy shop.					R	R R	/CA
Teen club or youth center.		S	S	S	R	R P	/CA
Telecommunications towers and facilities.					S	S	P/CA
Telephone exchange.	S	P	P	P	P	P	/CA
Telephone equipment storage including shops and garage; need not be enclosed within a structure but must provide adequate screening.					R	R	/CA
Temporary uses, including sale of Christmas trees, seasonal fruit and vegetables from roadside stands, and similar uses.	R				R	R	/CA
Tobacco store.					R	R R	/CA
Town hall, police station, fire station, court house, federal office building and similar public building.	R	R	R	R	R	R R	/CA
Toy store.					R	R R	/CA
Trade school or college.	R	S	S	S	S	S	/CA
Transit vehicle storage and servicing; need not be enclosed within a structure.					S	R	/CA
Utility company storage facility; need not be enclosed within a structure but must provide adequate screening.						S	R/CA
Variety store.					R	R R	/CA
Veterinary service.					S	S	/CA
Video Rental.					S	R R	/CA
Warehouse and storage facilities, major.						S	R/CA

Warehouse and storage facilities, minor: mini-type (1200 sq. ft. per unit or less) do-it-yourself storage facilities; facilities must not open to the street; screening and landscaping is required.						S	/CA
Water storage; need not be enclosed within a structure (tower).	R	R	R	R	R	R	R/CA
Water or sewage pumping station.	S	S	S	S	S	S	R/CA
Welding shop.					P	R	R/CA
Well drilling company.						R	/CA
YMCA, YWCA and similar institutions.	R				R	R P	/CA

(Ord. of 6-1-2003; Ord. of 3-16-2004; Ord. of 6-21-2005)

Sec. 9.4. - Requirements for lot area, lot width, coverage, density and other factors.

9.4.1 The following shall apply in each residential district as listed:

	Minimum Lot Area (Sq. Ft.)	Minimum Lot Width At Setback Line	Maximum Lot Coverage (%)*	Maximum Density**	Maximum Height
<i>R-A Rural Residential Agricultural</i>	80,000	150'	25	0.5	35'
<i>R-1 Low Density Residential</i>					
Single-Family					
w/septic tank & well	40,000	100	25	2.0	35'
w/septic tank & public water	15,000	75	25	2.0	35'
w/both public sewer & water	9,000	75	30	<u>2.5</u>	35'
<i>R-2 Medium Density Residential</i>					
Single-Family - NOTE	9,000	75	30	4.0	35'
Two-Family (per unit) - NOTE	7,500	75	30	4.0	35'
<i>R-3 High Density Residential</i>					

Single-Family - NOTE	9,000	75	40	4.0	40'
Two-Family (per unit) - NOTE	7,500	75	40	4.0	40'
Multiple-Family (per unit) - NOTE	5,000	75	40	15.0	40'
Mobile Home Parks (see Article X)					
Planned Unit Development (PUD)	Five Acres (5)	As approved by Council	As approved by Council	As approved by Council	As approved by Council
<p>*Does not apply to lots of record smaller than required in the district in which they are located.</p> <p>** Dwelling units per gross acre to be developed.</p> <p>NOTE: Minimum lot requirements with both public water and sewer facilities</p> <p>^a Minimum of 15,000 for [a] two-family dwelling</p>					

(Ord. of 6-17-2003; Ord. of 6-21-2005; Ord. of 9-18-2007)

Sec. 9.5. - Minimum setbacks.

The following front, rear and side yard setbacks shall apply in districts as listed:

	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 Roads
R-A	40	30	30	15	40	30
R-1	35	35	30	10	30	25
R-2	35	35	35	10	35	35
R-3*	35	35	35	10	35	35
GB	20	20	20	B	20	20
NB	***	***	***	***	***	***
B-1**	N/A	N/A	N/A	N/A	N/A	N/A

M-1	20	20	C	C	20	20
PUD	N/A	N/A	N/A	N/A	N/A	N/A
<p>* Mobile Home Parks, a.k.a. Manufactured Home Subdivision, see Article X, Section 10.2</p> <p>** This district is located one (1) block east and west of the intersection of State and Main Streets for lots abutting U.S. Hwy. 98.</p> <p>*** Setbacks in the NB district shall follow the strictest zoning district requirements that about the NB zoned property on either side.</p>						

- A- Ten (10) feet plus two (2) additional feet for each floor above two stories, but not exceeding twenty (20) feet; and when dwelling unit faces side yard, the dwelling unit must not be less than twenty-five (25) feet from the side lot line.
- B- None, except it will be five (5) feet if abutting an alley, and when abutting a residential district it shall be not less than twenty (25) feet.
- C- None, except it will be five (5) feet if abutting an alley, and when abutting a residential district it shall be not less than fifty (25) feet.

(Ord. of 6-17-2003; Ord. of 3-16-2004; Ord. of 6-21-2005)

Sec. 9.6. - Maximum building height.

Except as provided for elsewhere in this ordinance, no structure shall exceed two and one-half (2½) stories or thirty-five (35) feet in any R-1, R-2 residential district, NB and the B-1 business district or more than four (4) stories or forty (40) feet in any R-3, general business or industrial district. Structures of more than four (4) stories may be permitted subject to the approval of the Town Council.

(Ord. of 3-16-2004)

Sec. 9.7. - Performance standards for nonresidential districts.

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

- 9.7.1 Lots shall be of sufficient size to accommodate the intended use, including adequate parking and loading facilities in addition to space required for the conduct of other operations of the business, and to otherwise comply with the provisions of this ordinance.
- 9.7.2 Where a business district abuts any part of a residential district, a buffer zone twenty-five (25) feet wide shall be required; where an industrial district abuts any part of a residential or business zone, a buffer zone of twenty-five (25) feet shall be required. Said buffer zones shall be in addition to the yard requirements and shall be fenced or screened subject to the following regulations:
 - 9.7.2.1 *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.
 - 9.7.2.2 *Screen planting strip.* If a screen planting strip is provided as a protection buffer, it shall be at least twenty-five (25) feet in width, shall be planted with materials in sufficient density and of sufficient height (but in no case less than six (6) feet 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, by owner, in a clean and neat condition and in such manner as to accomplish its purpose continuously.

9.7.3 No primary entrances or exits shall direct traffic into adjacent residential or business districts.

Adequate parking as required in Article X, Section 10.9 shall be provided. Adequate space for service and supply vehicles to get in and out or turn around shall also be provided.

9.7.4 Noise, air pollutants including dust emissions, and surface runoff shall not exceed background levels by more than ten (10) percent.

Sec. 9.8. - Special exceptions.

More stringent design and landscape standards may be required by the Planning Commission for special exceptions permitted in any district.

Sec. 9.9. - Landscaping.

A landscaping plan may be required for any development within the Town of Elberta, but is mandatory for all multi-family developments including apartments, townhouses, condominiums, and for all business and industrial developments. Such plan shall be submitted to the Building Inspector prior to commencing any stripping of land or construction activities. The plan shall clearly show what existing trees will remain, as well as what shrubbery and other vegetation will be added to complete the final landscaping of the property. No trees 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's landscape plan shall indicate replacement trees at least six (6) feet tall and one (1) inch in diameter for each tree removed and the landscaping plan shall show the placement of the proper number of required new trees. The plan shall include renderings by a landscape architect and any other documentation required by the Planning Commission.

9.9.1 All new developments along major arterials shall be set back thirty-five (35) feet from the right-of-way and shall maintain a minimum of five (5) feet of the required thirty-five (35) foot setback as a greenbelt along the entire front width of the property except where curb cuts provide ingress and egress. Said greenbelt shall be planted with trees, shrubs and grass or other ground cover so that an attractive appearance is presented as detailed in the developer's required landscape plan.

9.9.2 A minimum of five- (5) feet side and rear landscaping may be required in the landscape plan depending on the topography and arrangement of parking facilities. If required, such areas shall be planted with a combination of trees, shrubs and grass or other ground cover adequate to break the expanse of contiguous parking areas and to present an attractive appearance as determined by the Building Inspector. Adjacent property owners may jointly agree on the establishment of a common landscaped area between their properties that meets the requirement of this section; provided that such agreement and the planting and maintenance of the common area shall be binding upon both parties and their successors, interests and assigns.

9.9.3 All new businesses related to car, truck or other vehicle service and repair shall be so designed and constructed that no service or repair bays shall be visible from the roadway on which the building fronts; and so that cars, trucks or other vehicles stored on the premises prior to and after service or repair are properly screened from view.

Sec. 9.10. - Compliance with health and safety standards.

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.

Sec. 9.11. - Non-permanent structures.

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 three-month periods, renewable, upon written request from the business owner, up to a maximum of one (1) year.

Sec. 9.12. - Appearance of business structures.

All business structures shall be so designed as to present an aesthetically pleasing appearance generally compatible with the existing buildings in the district. While this ordinance does not dictate the style of buildings, we encourage those who choose to build new, or to remodel, to choose architecture that will give distinction and separate it from other towns. Builders are encouraged to enhance the character of the town as originally a farming community with ethnic influences from eastern European countries, a look that will add to its appeal. A mixture of architectural features is more interesting than a single design, giving the developer freedom to incorporate their visions into the buildings and surrounding landscaping.

Two of the most important features of a commercial building are its sign and its front door. Attention should be paid to these features.

Entry Doors and Windows: The door is the focus of most buildings. Care should be taken to emphasize a welcoming wide door of natural materials. A stained glass or custom glass insert adds to the character with arches above the door, heavy trim, or mural embellishment possible. Recessed doorways or side lights add to visual appeal. Windows offer fine opportunities for embellishment with shutters, flower boxes and mural painting. Details around windows include overhead arches, alfresco painting, shutters, ornate trim, paints, or tiles.

Signs: The preferred medium is wood with European or Old German script. Adding "The Elberta" on the sign above the name of the business adds to its personality and makes it special to our town. Mounting brackets can give an artistic or unique approach to hanging the sign and adds to the attraction. Mural artists can enliven long bare spots. Flashing, neon or other back lit signs should be avoided.

Building Materials: Consider using materials that give an organic, natural look. Trim should be natural material or painted in to emphasize the architectural style.

Colors: Suggested are earth tones ranging from browns, tans and reds. To be avoided are neon, artificial colors that emphasize a plastic look.

Roofs, Balconies, Overhangs, Porches: Porches with wide steps should be a minimum of 6 feet wide to accommodate human traffic, preferably running the full width of a structure. Roofs are attractive, practical and more natural looking with overhangs proportionate to the size of the building and consistent throughout. A pitch of at least 5/12 is encouraged, with greater pitch generally more attractive. False front roof lines that emphasize a European look and include arches, and flowing lines complement the structure of buildings.

Landscaping: The builder is strongly encouraged to preserve as much of the permanent landscaping, especially mature trees and flowering shrubs, as possible. If trees must be removed, they should be replaced with like or similar size. Window boxes as well as planters add to visual appeal and will encourage people to spend time in and around a building. Parking should be interspersed with planted areas to give a more attractive appearance.

Sec. 9.13. - Metal buildings.

(Ord. of 6-17-2003)

ARTICLE X. - SPECIAL PROVISIONS

Sec. 10.1. - Recreational vehicles.

The following regulations apply to all developments provided for the accommodation of transient recreational vehicles, including travel trailers, campers, small mobile homes used for vacation purposes, motor homes and similar transient residential vehicles.

- 10.1.1 Recreational vehicle parks are uses permitted in R-3 Districts subject to the approval of the Planning Commission and the requirements of the following provisions.
- 10.1.2 No recreational vehicle park shall be located except with direct access to a county, state or federal highway, with a minimum lot width of not less than fifty (50) feet for the portion used for entrance and exit. No entrance or exit shall be through a residential district.
- 10.1.3 The minimum lot area per park shall be two (2) acres.
- 10.1.4 Use of spaces in recreational vehicle parks shall be limited to travel trailers, mobile homes, motor homes, and campers with a maximum length, exclusive of hitch, of forty (40) feet.
- 10.1.5 Users of the spaces shall meet all other applicable laws. Spaces shall be rented by the day or week only and an account of such space shall remain in the same trailer park for a period of not less than ninety (90) days.
- 10.1.6 Management headquarters, recreational facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to operation of a trailer park are permitted as accessory uses in any district in which trailer parks are allowed, provided:
 - 10.1.6.1 Such establishments and the parking area primarily related to their operations shall not occupy more than ten (10) percent of the area of the park.
 - 10.1.6.2 Such establishments shall be used in compliance with local regulations determined by the park management.
 - 10.1.6.3 Minimum sanitary facilities shall include one (1) toilet, one (1) shower, and one (1) lavatory basin per twenty-five (25) camp sites in the park.
- 10.1.7 No space shall be so located that any part intended for occupancy for sleeping purposes shall be within thirty (30) feet of the right-of-way line of any major, or collector street, or of any minor street.
- 10.1.8 In addition to meeting the above requirements, the recreational vehicle park site plan shall be accompanied by a certificate of approval of the county health department.

Sec. 10.2. - Mobile home parks, a.k.a. manufactured home subdivision.

Mobile home parks as defined herein are uses permitted in an R-3 Zoning District subject to the provisions of this ordinance.

- 10.2.1 *License.* It shall be unlawful for any person to maintain or operate a mobile home park within the limits of the Town of Elberta, Alabama, unless such a person shall first obtain a license therefor.
- 10.2.2 *License Fees and Temporary Permit Fees.*
 - 10.2.2.1 The annual license fee schedule for mobile home parks shall be as adopted by the Town Council and reviewed periodically for amendment and updating.
 - 10.2.2.2 The fee for a transfer of a license shall be twenty-five dollars (\$25.00). Transfer of license shall be pre-approved by the Town Council.
- 10.2.3 *Application for License.*
 - 10.2.3.1 Application for initial mobile home park license shall be filed with the Town of Elberta, Alabama. The application shall be in writing, signed by the applicant and shall include the following:
 - a. The name and address of the applicant;
 - b. The location and legal description of the mobile home park;
 - c. The complete plan of the park in conformity with the requirements of this ordinance;
 - d. Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the mobile home park;
 - e. Such further information as may be required by the Planning Commission to enable it to determine if the proposed park will comply with legal requirements. Four (4) copies of the application and all

accompanying plans and specifications shall be filed with the Town Clerk.

- 10.2.3.2 Upon application in writing by a licensee for renewal of a license and upon payment of the annual license fee, the Town shall issue a certificate renewing such license for another year, provided that the park is still in compliance with the requirements of this ordinance.
- 10.2.4 *Location.* Mobile home parks may be located in the R-3 Zoning District as established in this ordinance. Where any boundary of a park directly abuts property which is improved with a permanent residential building located within twenty-five (25) feet of such boundary, or directly abuts unimproved property which may under existing laws and regulations be used for permanent residential construction, a six-foot fence, wall, hedge or shrubbery screen shall be provided along such boundary.
- 10.2.5 *Mobile Home Park Plan.* The mobile home park, with minimum lot requirements, shall conform to the following requirements:
- 10.2.5.1 The park shall be located on a well-drained site, properly graded to ensure rapid drainage and free from stagnant pools of water.
- 10.2.5.2 Each park shall provide mobile home spaces, and each such space shall be clearly defined or delineated. Each space shall have an area of not less than five thousand (5,000) square feet and a width of not less than thirty (30) feet, and the average width of all spaces shall not be less than forty (40) feet; provided, however, that mobile home parks which, at the time of adoption of this ordinance, existed lawfully with mobile home spaces that do not comply with any of the foregoing minimum area and width or minimum average width requirements, may continue to operate and shall be excused from such compliance.
- 10.2.5.3 Mobile homes shall be so located on each space that there shall be at least a twenty-foot clearance between mobile homes.
- 10.2.5.4 All mobile home spaces shall abut a driveway of not less than twenty-four (24) feet in width, which shall have unobstructed access to a public street, alley or highway.
- 10.2.5.5 Walkways not less than two (2) feet wide shall be provided from the mobile home spaces to the service buildings.
- 10.2.5.6 Each mobile home space shall be provided with two (2) off-street parking spaces.
- 10.2.5.7 All driveways and walkways within the park shall be hard-surfaced and lighted at night with electric lamps of not less than two hundred and fifty (250) watts each, spaced at intervals of not more than one hundred (100) feet or placed on electric poles set at intervals designed by the electric company.
- 10.2.5.8 An electrical outlet supplying at least 120/140 volts, 100 amperes shall be provided for each mobile home space.
- 10.2.6 *Water Supply.* An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and mobile home spaces within the park, to meet the requirements of the park. Each mobile home space shall be provided with a cold water tap at least four (4) inches above the ground.
- 10.2.7 *Sewage and Refuse Disposal.*
- 10.2.7.1 Each mobile home space shall be provided with a sewer at least four (4) inches in diameter, which shall be connected to receive the waste from the shower, bathtub, flush toilet, lavatory and home harbored in such space and having any or all of such facilities. The sewer in each space shall be connected to discharge the mobile home waste into a public sewer system in compliance with any applicable ordinance or into a private sewer and disposal plant or septic tank system of such construction and in such a manner as will comply with the county health department requirements and present no health hazard.
- 10.2.7.2 Garbage receptacles. Garbage and trash disposal shall be in compliance with applicable Town ordinances.
- 10.2.8 *Fire Protection.* Every park shall be equipped at all times with fire extinguishing equipment in good working order of such type, size and number and so located within the park as to satisfy applicable reasonable regulations of the fire department. No open fires shall be permitted at any place which may endanger life or property. No fires shall be left unattended at any time. A six-inch water line with a fire plug shall be provided for each thirty (30) mobile homes (e.g., 31 require 2 fire plugs).

- 10.2.9 *Animals and Pets.* Ownership and care of dogs, cats or other pet animals shall be in compliance with applicable Town ordinances.
- 10.2.10 *Tie-downs and Anchors.* It shall be unlawful for any persons including, but without limitation, owners of mobile home parks and owners and/or occupants of mobile homes within the park, to place, maintain, or occupy any mobile home unless such mobile home is equipped with tie-downs and anchors meeting or exceeding standards of the Building Code.
- 10.2.11 *Common Recreation Facilities.* Not less than ten (10) percent of the total area of any mobile home park shall be devoted to common recreational areas and facilities, such as playgrounds and swimming pools. Ways for pedestrians and cyclists shall be away from streets, and play areas for small children or other recreational areas in block interiors.
- Common recreational areas shall not include streets or parking areas, shall be closed to automotive traffic except for maintenance and service vehicles, and shall be improved and maintained for the uses intended.
- 10.2.12 *Supervision.* The licensee or permittee, or a duly authorized attendant or caretaker shall be in-charge at all times to keep the mobile home park, its facilities and equipment in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with the licensee or permittee, for the violation of any provision of this ordinance to which the licensee or permittee is subject.
- 10.2.13 *Revocation of License.* The Town of Elberta, Alabama, may revoke any license to maintain and operate when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this ordinance. After the correction of such condition and the payment of the penalties imposed by law and assurance given to the Building Inspector that such condition will not be repeated, then the Building Inspector may issue a new license.

(Ord. of 6-17-2003)

Sec. 10.3. - Maintenance of mobile homes.

All mobile homes, whether on wheels or on piers or other type of foundation, shall be skirted and maintained.

Sec. 10.4. - Apartments, townhouses and condominiums.

Within the R-3 District permitting apartments, townhouses and condominiums the following requirements shall apply:

- 10.4.1 No more than eight (8) continuous apartments, townhouses and condominiums per floor shall be built in a row with approximately the same front line.
- 10.4.2 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.
- 10.4.3 No more than thirty-five (35) percent of the lot area shall be occupied with buildings.
- 10.4.4 Insofar as practicable, off-street parking facilities shall be located 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 one hundred (100) feet by the most direct pedestrian route from a door of the dwelling unit it intends to serve.
- 10.4.5 All multi-family developments shall be in compliance with applicable Town ordinances and/or health department regulations for public or private water and sanitary sewer systems.
- 10.4.6 All other requirements within the district in which the apartments, townhouses or condominiums are located shall prevail.

Sec. 10.5. - Accessory uses; temporary buildings; fallout shelters; home occupations.

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

- 10.5.1.1 Is customarily incidental to and is maintained and operated as a part of the principal use;

- 10.5.1.2 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;
- 10.5.1.3 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;
- 10.5.1.4 Is not located in minimum exterior yard; and
- 10.5.1.5 In residential districts an accessory use will conform to the following requirements:
- a. Where an accessory building is attached to the main building, a substantial part of one wall of the accessory building shall be an integral part of the main building or such accessory building shall be attached to the main building in a substantial manner by a roof, and therefore, such requirements applicable to the main building shall apply.
 - b. A detached accessory building shall not be closer than five (5) feet to the lot line; not more than one (1) story in height, may be constructed on not more than thirty (30) percent of the rear yard.
 - c. No detached accessory building may be located on the front yard of a lot nor on a lot by itself.
 - d. 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.
- 10.5.2 *Temporary Buildings.* Temporary buildings or mobile type trailers used in conjunction with construction work only, may be permitted in any district and shall be removed immediately upon completion of construction. Temporary Buildings/Structures (i.e., prefabricated sheds, carports, etc.) located in residential districts may be permitted pursuant to zoning setbacks and building code requirements for securing said building/structure.
- 10.5.3 *Fallout Shelters.* Fallout shelters are permissible as principal or accessory uses and structures in any district, subject to the following conditions:
- 10.5.3.1 If any portion of the structure extends above the ground, that portion above the ground must comply with the yard and lot coverage regulations of the district in which it is located, and the site plan for such shelter must be approved by the Building Inspector.
 - 10.5.3.2 If the structure is completely underground, it need not comply with yard requirements or percentage of lot coverage requirements.
 - 10.5.3.3 Fallout shelters may contain or be contained in other structures or may be constructed separately.
- 10.5.4 *Home Occupations.* Home occupations shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling or adversely affect the uses permitted in the district of which it is a part. No home occupation shall be permitted which might interfere with the general welfare of the surrounding residential area due to potential noise, increased pedestrian and vehicular traffic or any other condition which would constitute an objectionable use of residentially zoned property.
- 10.5.4.1 Limitations on type of home occupations are as follows:
- a. Area used for a home occupation shall not exceed twenty (20) percent of the gross floor area in the principal building.
 - b. The home occupation shall be confined entirely to the principal building or to an accessory building or outside storage with the twenty (20) percent of gross floor area applying.
 - c. Employment shall be limited to members of the family residing in the dwelling, and there shall be no employment of help other than members of the resident family. In no case shall more than two (2) persons be engaged in the home occupation.
 - d. No internal or external addition, alteration, or remodeling of the dwelling is permitted in connection with the home occupation.
 - e. No chemical, mechanical or electrical equipment that creates odors, light, glare, noises, or interference in radio or television reception detectable outside of the dwelling shall be permitted.

- f. No display of products shall be visible from the street and only articles made on the premises may be sold; except articles (consumable products) that are incidental to a service, which service shall be the principal use in the home sold on the premises.
- g. Instruction in music, dancing, and similar subjects shall be limited to two (2) students at a time.
- h. The activity carried on as a home occupation shall be limited to the hours between 7:00 a.m. and 10:00 p.m.
- i. One professional or announcement sign may be used to identify the customary home occupation. Such sign shall not exceed one and one-half (1½) square feet in area exposed to view and must be mounted flat to the main wall of the principal building. No such sign shall be directly illuminated.
- j. Customary home occupations shall not include the following:
 - 1. Uses which do not meet the provisions listed above.
 - 2. Automobile and/or body and fender repairing.
 - 3. Barber shops and beauty parlors.
 - 4. Food handling on a large-scale basis, processing or packing.
 - 5. 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.
 - 6. Restaurants.
 - 7. Uses which entail the harboring, training, raising or treatment of dogs, cats, birds or other animals.

10.5.5 *Satellite Receiving Dishes.* Satellite receiving dishes are permitted accessory uses in any district, provided they comply with setback, height, and other standards of this ordinance. In any district the dish antenna shall be located to the rear of the front building line and must be setback ten (10) feet from any interior or rear lot line. Special setbacks indicated herein apply on corner lots. The dish antenna together with the principal building and accessory building may not exceed the maximum lot coverage permitted in the district in which it is located. In residential districts where the antenna is detached from the main building, its maximum height may not exceed fifteen (15) feet. When roof mounted, it must conform to the zoning district's height limits.

10.5.6 *Radio and TV Antennas.* Private radio and TV antennas for individual homes or for amateur use are permitted as accessory structures in any district and may be placed on roof or in rear or side yards so that they do not occupy more than fifty (50) percent of said yard, nor come closer than five (5) feet to any right-of-way or property line. Antennas in excess of the normal height limitations for the district in which they are located are subject to approval and permit by the Building Inspector. Said permit shall include a clause that shall indemnify, hold harmless and protect the Town against any and all liabilities that may result from the erection and use of such radio and TV antennas. Antennas must be properly constructed in compliance with the requirements of the Federal Communications Commission (FCC), the American Radio Relay League, Inc. (ARRL), or equivalent standards and good engineering practices as determined by the Town Engineer.

(Ord. of 6-15-2003)

Sec. 10.6. - Automobile service stations.

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

- 10.6.1 *Location.* The property on which an automobile service station is located shall not be within one hundred (100) feet of any residential district, or any property containing a school, public playground, church, hospital, public library, institution for children, elderly or dependents.
- 10.6.2 *Site Requirements.* An automobile service station shall have a minimum frontage on the primary street of one hundred twenty (120) feet and a minimum lot area of twenty-three thousand (23,000) square feet. All buildings shall be setback forty (40) feet from all street right-of-way lines, fifty (50) feet for major arterials, and all canopies shall be setback fifteen (15) feet from all street right-of-way lines.
- 10.6.3 *Access to Site.* Vehicular entrances or exits at an automobile service station:

- 10.6.3.1 Shall not be provided with more than two (2) curb cuts for the first one hundred twenty (120) feet of street frontage.
- 10.6.3.2 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.
- 10.6.3.3 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.
- 10.6.4 *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 sixty (60) feet from the center line of an arterial street, fifty-five (55) feet from the center line of a collector street and forty-five (45) feet from the center line of other streets.
- 10.6.5 *Off-Street Parking.* A minimum of two (2) off-street parking spaces are required with an additional off-street parking space for each lubrication or wash bay.
- 10.6.6 *Other Site Improvements.* In addition to the above requirements, the following additional site improvements shall be adhered to:
 - 10.6.6.1 A raised curb of at least six (6) inches in height shall be erected along the street property lines, except for driveway openings.
 - 10.6.6.2 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.
 - 10.6.6.3 Exterior lighting shall be arranged so that it is deflected away from adjacent properties.
 - 10.6.6.4 Signs, whether permanent or temporary, shall not be placed within the public right-of-way and shall be arranged so that they do not obstruct visibility for drivers or pedestrians.
 - 10.6.6.5 All driving, parking storage and service areas shall be paved and curbed and a good stand of grass shall be maintained on the remainder of the lot.
- 10.6.7 *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.

Sec. 10.7. - Signs.

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

- 10.7.1 *General Provision.* The following shall apply:
 - 10.7.1.1 No sign, unless herein excepted shall be erected, constructed, posted, painted, altered, maintained, or relocated on property other than that of the business being advertised on same and until a permit has been issued by the Building Department.
 - 10.7.1.2 Any permitted sign shall be subject to the size and height limitation imposed by this Ordinance for the use district in which said sign is located, except as otherwise provided herein.
 - 10.7.1.3 No outdoor advertising sign or sign structure shall be placed upon any street or highway right-of-way except as otherwise provided herein.
 - 10.7.1.4 No outdoor advertising sign or sign structure shall be located in such a manner as to materially impede the view of any street or highway intersection.
 - 10.7.1.5 No outdoor advertising sign shall be erected, relocated or maintained so as to prevent free ingress or egress from any door, window or fire escape.
 - 10.7.1.6 No portion of any projecting outdoor advertising sign shall be less than eight (8) feet above the level of a sidewalk or other pedestrian thoroughfare, nor shall be less than fifteen (15) feet above the level of a public driveway, alley or street.

- 10.7.1.7 Signs shall be harmonious with the environment and with the nature of our special local characteristics of site, and development potential. Signs made of natural woods and materials featuring earth tones and indirect external lighting are encouraged.
- 10.7.1.8 No sign shall be larger than seventy-five (75) square feet, except where the name of a building or firm is to be attached across the front of a building.
- 10.7.1.9 A sign permit shall be null and void if the sign for which the permit was issued has not been completed and erected within a period of six (6) months from the date of issuance of the permit.
- 10.7.2 *Nonconforming Signs.* Any sign in existence on the date of adoption of this ordinance that is not in conformance with the requirements of this ordinance shall be considered a nonconforming sign and shall be permitted to continue to exist subject to the following conditions:
- 10.7.2.1 If any nonconforming sign is removed or destroyed or becomes fifty (50) percent or more structurally deteriorated, or repair/replacement costs exceeds 50% of the appraised value of the sign, as determined by the Building Inspector, then the replacement sign shall be in conformance with the requirements of this ordinance.
- 10.7.2.2 Where a change in use, occupancy or ownership occurs which necessitates the altering of a sign in any manner, the altered or changed sign shall be in conformance with the requirements of this ordinance.
- 10.7.2.3 Any nonconforming sign prohibited under Section 10.7.4 of this ordinance shall be removed or made to conform within ninety (90) days of the date of adoption of this ordinance.
- 10.7.2.4 The Board of Adjustment may, in special cases and for good reason, and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary or unique hardship, permit the erection of a sign not in conformance with the requirements of this ordinance, and at its discretion, may require the posting of a bond in sufficient amount to protect the Town against all liabilities that may result from the erection and use of such sign.
- 10.7.2.5 No permits for additional signs shall be issued for any premises on which there are nonconforming signs.
- 10.7.3 *Exempt Signs.* The following signs are exempt from the provisions of this ordinance and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the current building codes:
- 10.7.3.1 Official traffic signs or sign structures, or municipal information signs and provisional warning signs or sign structures, when erected or required to be erected by a governmental agency.
- 10.7.3.2 Changing the copy on a bulletin board, poster board, display encasement, marquee, or changeable copy type sign.
- 10.7.3.3 Temporary non-illuminated signs not more than thirty-two (32) square feet in area, erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress. One such sign, which shall not exceed ten (10) feet in height, is allowed for each street frontage. Such signs shall be removed upon completion of the project.
- 10.7.3.4 Any sign on a truck, bus or other vehicle that is used in the normal course of a business for transportation and not for the sole purpose of advertising, except where a vehicle is offered for sale.
- 10.7.3.5 Weather flags for providing information on weather conditions; one (1) set for each premises.
- 10.7.3.6 Real estate signs, temporary in nature, non-illuminated, not exceeding six and one-half (6½) square feet in area, advertising real estate for sale or lease or rent, or announcing contemplated improvements of real estate; one (1) sign for each street frontage.
- 10.7.3.7 Temporary decorative flags, bunting, banners, pennants, streamers, and signs for recognizing holidays, conventions, grand openings, festivals, fund raisers, and other commemorative occasions authorized by the Zoning Enforcement Officer or Building Inspector. Said temporary decorations and signs shall be removed as soon as the commemorative occasion is over (no later than 72 hours); otherwise temporary decorations and signs shall be subject to the requirements of Section 10.7.7.5, Note 5, of this ordinance.

- 10.7.3.8 Political signs, are exempt from the permit requirements of this Ordinance but are subject to the following:
1. Political signs shall not be erected, constructed, posted or painted on any public right-of-way, utility pole, tree, bench, fence, awning, stand pipe, nor attached to any Town, County, State or Federal roadway marker, directional sign or informational sign.
 2. Political signs shall not be attached to any existing identification announcement or pricing signs for any business or commercial establishment.
 3. Political signs shall not be located in such a manner as to materially impede the view of any street or highway intersection or to adversely affect ingress or egress from parking lots or driveways.
 4. Political signs may be placed on private property in any zoning district within the jurisdiction of the Town.
 - a. Political signs in residential districts shall not exceed four (4) square feet in area or four (4) feet in height.
 - b. Political signs in business, commercial and industrial districts shall not exceed fifteen (15) square feet in area or eight (8) feet in height.
 5. Political signs not more than four (4) square feet in area may be attached to private or commercial vehicles used for transportation or business purposes.
 6. Customary size party balloons imprinted with a political ad may be tethered to any political sign, provided such balloons do not rise more than four (4) feet above the sign to which they are attached and that not more than two (2) such balloons are attached to any one (1) sign.
 7. Political signs may be placed only after a candidate has qualified to run for office and must be removed within five (5) days after the election.
- 10.7.3.9 This space left blank for future use.
- 10.7.3.10 Non-advertising directional signs or symbols (e.g., entrance, exit, caution, slow, no trespassing) located on and pertaining to a parcel of private property, not to exceed two (2) square feet.
- 10.7.3.11 One (1) identification sign, with or without bulletin board per street frontage for public, charitable, educational or religious institutions, located on the premises of said institution and not exceeding seventy-five (75) square feet.
- 10.7.3.12 Memorial signs and historical markers, constructed of bronze, stone, or other incombustible material, after historical authentication and location is approved by the Building Inspector.
- 10.7.3.13 One (1) each professional, announcement, or occupational sign non-directly illuminated and flat wall mounted, and/or one (1) each outdoor advertising sign for privately owned premises or business location, provided the area of the sign or the combined areas of both signs, if two (2) signs are erected, does not exceed five (5) square feet, and provided the premises or business location is without a permitted sign.
- 10.7.3.14 Noncommercial yard or garage sale temporary signs not exceeding eight (8) square feet erected on private property and which display the date(s) and address of the sale. Said signs shall be removed as soon as the sale is concluded.
- 10.7.3.15 Signs attached to machinery or equipment which advertise only the product or service dispensed by the machine or equipment, such as signs customarily affixed to vending machines, newspaper racks, telephone booths, and gasoline pumps, provided the combined area of such signs does not exceed eight (8) square feet.
- 10.7.3.16 Window signs which identify or advertise activities, services, goods, or products available within the building.
- 10.7.3.17 One (1) each business or professional identification sign mounted to extend vertically below a marquee or canopy, provided its area does not exceed six (6) square feet nor exceed the width of the marquee or

canopy nor provide less than nine (9) feet of clearance above the sidewalk or pedestrian thoroughfare.

10.7.4 *Signs Prohibited in All Districts.* The following signs are prohibited in all use districts:

- 10.7.4.1 Any sign erected or painted upon a fence, tree, standpipe, fire escape or utility pole, except the manufacturer's or installer's ID plate which shall not exceed 5x8 inches in size.
- 10.7.4.2 Any sign which uses the word "Stop" or "Danger" prominently displayed and/or which is a copy or imitation of official traffic control signs except where such words are a part of an attraction title for a theater or other similar event or purpose.
- 10.7.4.3 Signs which contain flashing or intermittent illuminations, except as required for traffic control. Changing the copy on a bulletin board or changeable copy type sign which displays customary public information, such as time, date, temperature or other such information is deemed not to be flashing or intermittent illuminations.
- 10.7.4.4 Portable signs, snipe signs, sandwich signs, or ladder type signs.
- 10.7.4.5 Permanent signs that produce sound or noise; cause interference with radio, telephone, television or other communication transmissions; produce or reflect motion pictures; emit visible smoke, vapor, particles, or odor; are animated or produce any rotation, motion or movement.
- 10.7.4.6 Billboards and off-premises signs.

10.7.5 *Maintenance and Removal of Signs.*

- 10.7.5.1 All signs shall be maintained in good condition and appearance. The Building Inspector, after due notice in writing to the owner, may cause to be removed, at owner's expense, any sign which shows neglect or which appears abandoned or which becomes dilapidated or dysfunctional, or where the area for a distance of ten (10) feet around such sign is not kept free of weeds, rubbish, debris, or uncut grass.
- 10.7.5.2 Any sign associated with premises that have been vacated shall be either removed from the premises by the owner or lessee within three (3) months of the time of the vacation, or said sign shall be altered or resurfaced by the owner or lessee within the same time period so that it does not display letters, numerals, symbols, figures, designs, or any other device for visual communication that would pertain to the activity formerly associated with the vacated premises.
- 10.7.5.3 The Building Inspector shall remove or cause to be removed any sign erected or maintained on any public right-of-way within the town, or which is in violation of any of the provisions of this ordinance.
- 10.7.5.4 The erection or maintenance of any sign in violation of this ordinance is a misdemeanor and shall be subject to the penalties set forth in Article XII Section 12.9 of this ordinance.

10.7.6 *Traffic Control Devices on Private Property.* When the owner of real property allows it to be used by the public for the purpose of vehicular traffic and/or as a public or quasi-public parking lot for the use of customers, tenants or employees of said property, the owner shall erect and maintain all traffic control signs and other devices in accordance with the Alabama Manual on Uniform Traffic Control Devices, and any revisions thereof. In addition, the owner shall meet the requirements of Section 32-5-31(a) of the Code of Alabama, 1975 [Code of Ala. 1975, § 32-5-31(a)], with respect to local authorities in their respective jurisdictions.

10.7.7 *Permitted Signs.*

- 10.7.7.1 Unless otherwise specified in this ordinance, the schedule in Section 10.7.7.5 contains requirements for signs permitted in each use district.
- 10.7.7.2 Signs indicating the name of any fixed dwelling or mobile home subdivision; mobile home park; apartment, townhouse, condominium, office park, shopping center, industrial park or other residential or business complex permitted in any district; and signs for any use permitted by Right, with planning approval or as a special exception in any residential district, are permitted. Such signs shall not exceed fifty (50) square feet in area per face, two (2) faces, twenty-one (21) feet in height, and one (1) such sign per street frontage.
- 10.7.7.3 Signs permitted under Section 10.7.7.2 shall require a permit unless otherwise excepted elsewhere in this ordinance.
- 10.7.7.4 Gasoline or other motor vehicle fuel pricing signs, in addition to permitted name or identification signs, are

permitted in any business or industrial district. Such signs shall not exceed twenty-four (24) square feet in area and must comply with the other sign requirements for the district in which they are located.

10.7.7.5 *Schedule of Permitted Sign Requirements.*

Zoning District	Type of Use	Maximum Area/Face	Maximum Number of Faces	Maximum Height	Maximum Number of Signs Permitted
R-A	SF Residential	6 sq. ft.	1	6 ft.	1 per premises
R-1	SF Residential	6 sq. ft.	1	6 ft.	1 per premises
R-2	SF Residential	6 sq. ft.	1	6 ft.	1 per premises
R-3	High Density Multi-Family Residential	6 sq. ft.	1	6 ft.	1 per premises
N-B	Neighborhood Professional Business	35 sq. ft. per premises	2	10 ft.	1 per street frontage
G-B B-1	General Business	75 sq. ft. per premises	2	21 ft.	1 per street frontage; 2 if the premises frontage is greater than one thousand (1,000) linear feet.
M-1	Industrial	75 sq. ft. per premises	2	21 ft.	1 per street frontage

10.7.8 *Savings Clause.* If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of the Ordinance which is not in and of itself invalid or unconstitutional.

10.7.9 *Amendment and Repealer.* This Ordinance shall amend the Zoning Ordinance of the Town of Elberta, Alabama so as to replace former Section 10.7 governing Signs of the Zoning Ordinance of the Town of Elberta, Alabama and said Section of said Ordinance is hereby repealed, however, any repeal of said former Section shall not affect any rights and privileges for enforcement of any violation thereof which existed at the time of the adoption of this Ordinance which would remain a violation under this Ordinance.

10.7.9.1 *Effective Date.* This Ordinance shall take effect upon adoption and shall be published as required by law.

NOTES

- 1) Signs for any residential use permitted in any nonresidential district must comply with the requirements for signs permitted in residential districts.
- 2) Each establishment in a shopping center or each business premises in G-B and M-1 districts may acquire an additional permit for one front or side wall mounted sign of a size not to exceed the lesser of three hundred (300) square feet or twenty (20) percent of the front or side surface area of the building or portion of building. Signs mounted on mansards, marquees, and awnings are deemed to be wall signs.
- 3) A temporary advertising sign will be permitted to the owner for the development for each individual business premises, shopping center premises, commercial/industrial business, subdivision, mobile home park, and mobile home subdivision, provided the area of each sign shall not exceed thirty-two (32) square feet, is non-illuminated, mounted from the ground within the confines of the development and the height no greater than ten (10) feet for no more than one (1) sign, either single or double faced, per street frontage. Permits shall be issued for a period of one (1) year. An additional one (1) year permit may be issued if the Building Inspector has determined that the promotion of the development is active and the temporary sign meets the maintenance requirements in Section 10.75 of this ordinance. The temporary sign will be removed when a permitted permanent sign is erected.
- 4) A temporary sign will be permitted on each premises for a new business or a business starting a new location where the premises is without a permitted permanent sign for a period of not more than sixty (60) days or until mounting of a permanently permitted sign, whichever occurs first, provided the temporary sign does not exceed thirty-two (32) square feet, is non-illuminated, mounted from the ground to a height not to exceed ten (10) feet. Said sign may be single or double faced.
- 5) Temporary decorative signs, flags, pennants, banners, streamers, bunting, flying paraphernalia, and tethered inflatable signs may be permitted to a premises owner for no more than thirty (30) continuous calendar days in any six (6) month period.
- 6) A permanent or temporary sign, erected on private or public property, not exceeding nine (9) square feet to denote the route to any city, town, village, historic or religious place, shrine, public building or facility, school, hospital, healthcare facility, public meeting or public event when authorized by the Zoning Enforcement Officer and Mayor.
- 7) All existing off-premises signs and billboards are hereby grandfathered until such time as any such existing off-premises sign or billboard is removed or so damaged or destroyed as to require maintenance or repair to the structure when applying sound construction principles to the sign or billboard and same poses a threat to fall or cause a hazard. Any replacement signs or billboard shall be in conformance with the provisions of this Ordinance. No new off-premises signs or billboards will be permitted in any zone, nor shall a permit be issued for any permitted on-premises sign for any premises on which there exists a grandfathered non-conforming sign or billboard unless the non-conforming sign or billboard is first permanently removed. No repairs or maintenance shall be allowed to non-conforming signs. Repairs and maintenance shall not be the changing of removable signage.

(Ord. of 6-17-2003)

Sec. 10.8. - Cemeteries.

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

- 10.8.1 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 thoroughfare.
- 10.8.2 Any new cemetery shall be located on a site containing not less than twenty (20) acres and must meet the State of Alabama Health Department Regulatory Requirements.
- 10.8.3 All structures shall be set back no less than twenty-five (25) feet from any property line or minor street right-of-way.
- 10.8.4 All graves or burial lots shall be set back not less than twenty-five (25) feet from any property line or minor street right-of-way lines, and not less than fifty (50) feet from any collector or arterial street.
- 10.8.5 The entire cemetery property shall be landscaped and maintained.

10.8.6 An application must be made to the Board of Adjustment for any extension of existing cemeteries.

Sec. 10.9. - Parking requirements for all districts.

- 10.9.1 *General.* Off-street automobile storage or parking space shall be provided with vehicular access to a street or alley, and shall be equal to at least the minimum requirements for the specific land use set forth or as otherwise provided in this ordinance.
- 10.9.1.1 The required number of parking spaces for any number so 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.
- 10.9.1.2 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.
- 10.9.1.3 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 except along Highway 98 between Alabama Street and Illinois Street where the Planning Commission can waive the parking requirements as same is available along the public way(s).
- 10.9.1.4 For existing commercial uses in any business district and other similar areas desiring to build or 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.
- 10.9.2 *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 (3) levels above ground or twenty-five (25) percent of the height of the principal structure, whichever is greater.
- 10.9.2.1 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 Town Engineer and the Planning Commission.
- 10.9.2.2 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.
- 10.9.3 *Parking Schedule.*
- 10.9.3.1 *Dwellings.*

Land Use	Parking Requirements
a. One and two families:	Two (2) spaces for each dwelling unit.
b. Multiple:	One and one-half (1.5) spaces for each unit.
c. Hotels:	One and one-fourth (1.25) spaces for each guest bedroom.
d. Motels, tourist courts and tourist homes:	One and one-half (1.5) spaces for each guest bedroom.
e. Mobile home courts and parks:	Two (2) spaces per unit.

f. Boarding and rooming houses, dormitories:	One (1) space for each guest bedroom.
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10.9.3.2 *Public Assembly.*

Land Use	Parking Requirements
a. Churches or other places of worship:	One (1) space for each four (4) seats in the main auditorium or sanctuary.
b. Private clubs, lodges and fraternal buildings not providing overnight accommodations:	One (1) space for each 100 square feet of building under roof.
c. Theaters, auditoriums, coliseums, stadiums and similar places of assembly:	One (1) space for each four seats.
d. Libraries, museums:	One (1) space for each 500 square feet of gross floor area.
e. Schools, including kindergartens, play-schools and day care centers:	One (1) space for each four (4) seats in assembly hall, or one (1) space for each employee, including teachers and administrators, whichever is greater, plus five (5) spaces per classroom for high schools and colleges.
f. Skating rinks, dance halls, exhibition halls, pool rooms and other places of amusement or assembly without fixed seating arrangements:	One (1) space for each 200 square feet of floor area.
g. Bowling alleys:	Four (4) spaces for each alley.

10.9.3.5 *Health Facilities.*

Land Use	Parking Requirements
a. Hospitals, sanitariums, nursing homes, homes for the aged and similar institutional uses:	One (1) space for each four (4) beds, plus one (1) space for each employee on the maximum shift.
b. Kennels and animal hospitals:	A parking area equal to thirty (30) percent of the total enclosed or covered area.
c. Medical, dental and health offices and clinics:	One (1) space for each 200 square feet of floor area used for offices and similar purposes.

d. Mortuaries and funeral parlors:	Ten (10) spaces per parlor chapel unit, or one (1) space per two (2) seats, whichever is greater.
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10.9.3.4. *Business.*

Land Use	Parking Requirements
a. Commercial establishments and offices, including but not limited to the following: 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:	Four (4) parking spaces for up to 400 square feet of gross floor area, plus one (1) parking space for each additional 800 square feet of gross floor area, up to 5,000 square feet plus one (1) parking space for each additional 300 square feet of gross floor area over 5,000 square feet.
b. Restaurants, including bars, grills, diners, cafes, taverns, night clubs, lunch counters, and all similar dining and/or drinking establishments:	One and one-fourth (1.25) spaces for each four (4) seats.
c. Shopping centers:	One (1) space per 400 square feet gross floor area.
d. Marinas:	Two (2) spaces per berth. Also applies to dry storage.

10.9.3.5 *Industries.*

Land Use	Parking Requirements
a. Commercial, manufacturing and industrial establishments, not catering to the retail trade:	One (1) space for each employee on the maximum working shift, plus one (1) space for each vehicle operating from the premises.
b. Wholesale establishments:	One (1) space for every fifty (50) square feet of customer services area, plus two (2) spaces for each three (3) employees on the maximum working shift, plus one (1) space for each company vehicle operating from the premises.

c. Electric power and gas substations:	Twenty-five (25) percent of the parcel on which located or four (4) spaces, whichever is smaller.
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10.9.3.6 Any use not specified by these regulations shall require one parking space for each three hundred (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.

10.9.4 *Design Standards and Improvement Requirements.*

10.9.4.1 *Definition.* Any off-street parking space is an all-weather surfaced area not in a street or alley and having an area of not less than one hundred seventy-one (171) square feet and minimum dimensions of 9'x19', exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords unobstructed ingress and egress to each space.

10.9.4.2 *Permit.* A parking area permit approved by the Building Inspector shall be required for any parking area with a design capacity for six (6) or more vehicles.

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

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

10.9.4.4 *Width of two-way access driveways.* The minimum width of two-way access driveways within parking areas shall be

twenty-four (24) feet.

- 10.9.4.5 *Paving standards.* Parking spaces and driveways shall be paved to standards established by the Town of Elberta.
- 10.9.4.6 *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.
- 10.9.5 *Landscaping.* The design and appearance of parking areas is intended to be compatible with the character of the community. Toward this objective the following standards shall be observed in the construction of off-street parking areas accommodating six (6) or more parking spaces.
- 10.9.5.1 At least ten (10) percent of the total interior area intended for off-street parking shall be suitably landscaped;
- 10.9.5.2 Such landscaping to include the placement of shade trees at intervals of approximately twelve (12) parking spaces; such trees shall be a minimum height of eight (8) feet at planting;
- 10.9.5.3 Interior portions of the parking area shall be broken by provision of landscaped islands;
- 10.9.5.4 A maximum of twelve (12) parking spaces in a row will be permitted without an island;
- 10.9.5.5 Each separate landscaped area must be a minimum of ninety-five (95) square feet if it is to be counted toward the minimum landscaped area requirements;
- 10.9.5.6 Landscaped areas shall be protected from vehicular encroachment by the use of curbing or wheel stops;
- 10.9.5.7 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.
- 10.9.6 *Off-street Loading and Unloading Space.* Off-street loading/unloading spaces shall be provided as hereinafter required by this ordinance.
- 10.9.6.1 *Size of spaces.* Each off-street loading/unloading space shall have minimum dimensions of fourteen (14) feet in height, twelve (12) feet in width, and fifty-five (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 thirty-five (35) feet.
- 10.9.6.2 *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.
- 10.9.6.3 *Floor area over 10,000 square feet.* There shall be provided for each hospital, institution, hotel, commercial, or industrial building or similar use requiring the receipt or distribution of materials or merchandise and having a floor area of more than ten thousand (10,000) square feet, at least one off-street loading/unloading space for each ten thousand (10,000) square feet of floor space or fraction thereof. Such space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street or alley.
- 10.9.6.4 *Floor area less than 10,000 square feet.* There shall be provided for each commercial or industrial building requiring the receipt or distribution of materials or merchandise and having a floor area of less than ten thousand (10,000) square feet, sufficient off-street loading/unloading space (not necessarily a full space if shared by an adjacent establishment) so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street or alley.
- 10.9.6.5 *Bus and trucking terminals.* There shall be provided sufficient space to accommodate the maximum number of buses or trucks to be stored or to be loaded at the terminal at any one time.
- 10.9.6.6 *Location.* All required off-street loading/unloading spaces shall be located on the same lot as the building which they are intended to serve, or an adjacent lot when shared with the use occupying said adjacent lot.
- 10.9.6.7 *Permanent reservation.* Areas reserved for off-street loading/unloading in accordance with the requirement of this ordinance shall not be reduced in area or changed to any other use unless the permitted use which is served is discontinued or modified except where equivalent loading/unloading space is provided and approved by Planning Commission.

10.9.7 *Off-Street Parking; Loading/Unloading Spaces for Mini-Warehouses.*

- 10.9.7.1 All one-way driveways shall provide for one ten-foot travel lane. Traffic direction and parking shall be designated by signing or painting.
- 10.9.7.2 All two-way driveways shall provide for one ten-foot parking lane and two twelve-foot travel lanes.
- 10.9.7.3 Whenever applicable, two (2) parking spaces shall be provided for the manager's quarters plus one (1) additional space for every twenty-five (25) storage cubicles to be located at the project office for use of clients.

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

- 10.9.8.1 *Curb cuts.* No curb cut shall exceed fifty (50) feet in length, nor shall curb cuts be closer than fifty (50) feet to other curb cuts or closer than fifty (50) feet to any intersection of two (2) streets measured along the curb line.
- 10.9.8.2 *Vision clearance.* In all use districts, no fence, wall, shrubbery, sign, marquee, or other obstruction to vision between the heights of two and one-half (2½) and ten (10) feet from the street level shall be permitted within twenty (20) feet of the intersection of the right-of-way lines of two (2) streets or railroad lines, or of a street intersection with a railroad line.

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

- 10.9.9.1 Commercial vehicles and trailers of all types, including travel, boat, camping and hauling, shall not be parked or stored on any lot occupied by a dwelling or any lot in any residential district except in accordance with the following requirements:
 - a. No more than one commercial vehicle per dwelling shall be permitted if parked or stored behind the front building set back line; and in no case shall a commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products be permitted.
 - b. Travel trailers, hauling trailers, or boat trailers shall be permitted if parked or stored behind the front building setback line.
 - c. A travel trailer shall not be occupied permanently while it is parked or stored in any area unless it is in a trailer park authorized under this ordinance.
 - d. A junked vehicle, or one that cannot be moved under its own power, shall not be permitted to be located on or near lots with dwelling units. These junked autos shall be confined to junk yards.

(Ord. of 6-17-2003)

Sec. 10.10. - Fire hazards.

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

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

TOTAL CAPACITY OF FLAMMABLE MATERIALS PERMITTED
(GALLONS)*

Industries Engaged in Storage and Distribution of Such Materials	Above Ground	Below Ground
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1. Materials having a flash point above 190 degrees Fahrenheit (87.7878 Centigrade)	Prohibited	100,000
2. Materials having a flash point from and including 105 degrees Fahrenheit (40.5556 Centigrade) to and including 190 degrees Fahrenheit (87.7878 Centigrade)	Prohibited	40,000
3. Materials having a flash point below 105 degrees Fahrenheit (40.5556 Centigrade)	Prohibited	20,000

Industries Engaged in Utilization and Manufacture of Such Materials	Above Ground	Below Ground
1. Materials having a flash point above 190 degrees Fahrenheit (87.7878 Centigrade)	10,000	50,000
2. Materials having a flash point from and including 105 degrees Fahrenheit (40.5556 Centigrade) to and including 190 degrees Fahrenheit (87.7878 Centigrade)	1,000	20,000
3. Materials having a flash point below 105 degrees Fahrenheit (40.5556 Centigrade)	500	10,000
* When flammable gases are stored, utilized or manufactured and measured in cubic feet, the quantity in cubic feet (at S.T.P.) permitted shall not exceed 300 times the quantities listed above.		

Sec. 10.11. - Water pollution.

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

Sec. 10.12. - Telecommunications towers and facilities.

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

- a. Achieve a balance among the number, height, and density of wireless telecommunications facilities that is appropriate for our communities;
- b. Encourage and maximize the use of existing and approved towers, buildings and other structures to accommodate new wireless telecommunications facilities;
- c. Ensure the compatibility of towers with, and avoid adverse impacts to, nearby properties; and
- d. Discourage the proliferation of towers throughout the Town of Elberta.

10.12.2 *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.*)

10.12.3 *Procedures and standards.*

- a. *Where permitted.* Wireless telecommunications facilities shall be permitted by special exception in all zoning districts. Antennas located on existing towers (co-location antennas) and antennas located on alternative support structures shall be permitted by right.
- b. *Height.*
 1. Antennas located on alternative support structures shall not exceed 15 feet in height above the existing structure on which they are placed.
 2. Tower height shall be limited to 180 ft.
- c. *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.
- d. *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.

- e. *Aesthetics.* The aesthetic properties of each individual wireless telecommunications facility shall be approved as part of the review process.
1. *Appearance.* The design of the tower shall be of a type that has the least visual impact on the surrounding area.
 - (a) 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.
 - (b) No signage, symbols, or advertisements may be attached to the pole, tower or antenna.
 - (c) 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).
 2. *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.
 3. *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.
 4. *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.

f. *Lighting.*

1. 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.
2. 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.

g. *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.

h. *Safety.*

1. *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.
 2. *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 Town of Elberta 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.
 3. *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.
- i. *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.

Sec. 10.13. - Swimming pools, pool enclosures and associated equipment.

10.101 Aboveground pools in residential districts may be allowed with the following conditions:

- a. Pool pumps and related equipment visible from the street must be properly screened from view.
- b. Barriers must be installed to prevent unauthorized access to the pool and pool area during all hours. Barriers for aboveground pools must meet the requirements of Section 315.2.1.10 of the Standard Swimming Pool Code.

10.102 Below or in-ground pools in residential districts may be allowed with the following conditions:

- a. In-ground pools must be properly permitted by the Building Official and meet all requirements of the Standard Swimming Pool Code and all other applicable codes and ordinances as adopted by the Town of Elberta.
- b. Pool pumps and associated pool equipment visible from the street must be properly screened from view.
- c. Setback requirements for in-ground pools shall be the same as that required for detached accessory structures with the exception that pools may be located no closer than five feet from the primary residence.
- d. Material that has been excavated to allow installation of an in-ground pool shall be disposed of properly.
- e. Screened enclosures or other types of structures surrounding or enclosing in-ground pools must meet the same property line setback requirements as detached or attached accessory structures.

(Ord. of 6-17-2003)

ARTICLE XI. - EROSION AND SEDIMENT CONTROL

Sec. 11.1. - Plan requirement.

An erosion and sediment control plan shall be required for all developments in Elberta's corporate limits. Such plan shall be required prior to the commencement of any land-disturbing activity.

Sec. 11.2. - Plan submission and review.

Whenever the area to be disturbed comprises more than one acre, a copy of the plan shall be filed with the Building Inspector and the Town Engineer a minimum of thirty (30) days prior to beginning any land-disturbing activity. A copy of the plans shall also be on file at the job site. If the Building Inspector and/or the Town Engineer determines, either upon review of such plan or on inspection of the job site, that a significant risk of off-site sedimentation or erosion exists, he will require that a revised plan be prepared. Pending the preparation of the revised plan, the work shall be either suspended or continued under conditions outlined by the Building Inspector or the Town Engineer.

Sec. 11.3. - Plan content.

Erosion and sediment control plans shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to describe accurately the proposed development of the site and the measures planned to meet the basic control objectives. Plan content may vary to meet the needs of the specific site conditions.

Sec. 11.4. - Protection of property.

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

Sec. 11.5. - Basic control objectives.

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

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

Sec. 11.6. - Standards.

- 11.6.1 *Mandatory Standards.* No land-disturbing activity subject to these provisions and guidelines shall be undertaken except in accordance with the following requirements:
- 11.6.1.1 No land-disturbing activity shall be permitted in proximity to a lake, natural watercourse, or adjacent property where applicable unless a buffer zone is provided along the boundary of sufficient width to confine visible siltation and/or prevent erosion, provided that the land-disturbing activity is not in connection with the construction of facilities to be located on, over, or under a lake, natural watercourse, or adjacent property.
- 11.6.1.2 The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within thirty (30) working days of completion of final grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.
- 11.6.1.3 Whenever land-disturbing activity is undertaken on a tract comprising more than one acre, if more than one contiguous acre is uncovered, a ground cover sufficient to restrain erosion must be planted or otherwise provided within thirty (30) working days on that portion of the tract upon which further active construction is not being undertaken, provided, that this activity shall not apply to cleared land forming the basin of a reservoir later to be inundated.
- 11.6.2 *Design and Performance Standards.* Erosion and sediment control measures, structures, and devices shall be so planned, designed, and constructed as to provide control from the calculated peak rates of runoff from a ten-year frequency storm. Runoff rates may be calculated using the procedures in the USDA, Soil Conservation Services "National Engineering Field Manual for Conservation Practices," or other acceptable calculation procedures. Runoff computations shall be based on rainfall data published by the National Weather Service for the area.

Sec. 11.7. - Other requirements.

- 11.7.1 *Permanent Downstream Protection of Stream Banks and Channels.* Provision shall be made for the permanent protection of off-site stream banks and channels from the erosive effects of increased volume of storm water runoff resulting from certain land-disturbing activities.
- 11.7.1.1 A combination of storage and controlled release of storm water runoff shall be required for all highway construction; commercial, industrial, educational, institutional developments of one acre or more; and for all residential developments unless excepted by Section 11.7.1.2.
- 11.7.1.2 Detention, storage and controlled release will not be required in those instances where the person planning to conduct the activity can demonstrate that the storm water release will not cause an increase in accelerated erosion or sedimentation of the receiving ditch, stream channel, or other drainage facility, taking into consideration any anticipated development of the watershed in question.
- 11.7.2 *Borrow and waste areas.* When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.
- 11.7.3 *Access and haul roads.* Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.
- 11.7.4 *Operations in Lakes or Natural Watercourses.* Land-disturbing activity in connection with construction, in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the stream flow characteristics, except when justification for significant alteration to flow characteristic is provided.

Sec. 11.8. - Responsibility for maintenance.

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

Sec. 11.9. - Guidelines for erosion and sediment control practices.

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

Sec. 11.10. - Additional measures.

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

ARTICLE XII. - ZONING ADMINISTRATION

Sec. 12.1. - Duties and powers of the zoning enforcement officer.

The Zoning Enforcement Officer shall be the Elberta Building Inspector or other official as designated by the Building Inspector whose duties shall be as follows:

- 12.1.1 The Zoning Enforcement Officer is authorized and empowered on behalf and in the name of the council to administer and enforce the provisions of this ordinance to include receiving applications, inspection of premises, and issuing certificates of zoning compliance and certificates of occupancy for uses and structures which are in conformance with the provisions of this ordinance.
- 12.1.2 The Zoning Enforcement Officer does not have the authority to take final action on applications or matters involving variances or other exceptions which this ordinance has reserved for action by the Board of Adjustment, the Planning Commission, and/or the Building Inspector.
- 12.1.3 The Zoning Enforcement Officer shall keep records of all and any permits, the certificates of occupancy issued, maps, plats, and other documents with notations of all special conditions involved. He shall file and safely keep copies of all sketches and plans submitted, and the same shall form a part of the records of his office and shall be made as a public record.

Sec. 12.2. - Permits and certificates.

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

- 12.2.1 *Building Permits.* 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 of any structure, including accessory structures, until the Building Inspector has issued for such work a building permit including a statement that the plans, specifications and intended use of such structure in all respects conform with the provisions of this ordinance. Application for the building permit shall be made to the Building Inspector on forms provided for that purpose.
- 12.2.2 *Approval of Plans and Issuance of Building Permits.* It shall be unlawful for the Building Inspector to approve any plans or issue a building permit for any excavation or construction until he has inspected such plans in detail and found them in conformity with this ordinance. To this end, the Building Inspector shall require that every application for a building permit for excavation, construction, use of land, moving or alteration be accompanied by

a plan or plat drawn to scale and showing sufficient detail to enable the Building Inspector to ascertain whether the proposed excavation, construction, use of land, moving or alteration is in conformance with this ordinance. Such plan or plat shall include, as a minimum:

- 12.2.2.1 The actual shape, proportion and dimensions of the lot to be built upon;
- 12.2.2.2 The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot;
- 12.2.2.3 The existing and intended use of all such buildings or other structures.

If the proposed excavation, construction, moving, or alteration as set forth in the application, are in conformity with the provisions of this ordinance, the Building Inspector of the municipality shall issue a building permit accordingly. If an application for a building permit is not approved, the Building Inspector shall state in writing on the application the causes for such disapproval. Issuance of a building permit, shall, in no case, be construed as waiving any provisions of this ordinance on the part of the builder/owner or applicant.

Certificate of Occupancy. No land or building or other structure or part thereof hereafter erected, moved or altered in its use shall be used until the Building Inspector shall have issued a certificate of occupancy stating that such land or structure or part thereof is found to be in conformity with the provisions of this ordinance. Within three (3) days after the owner or his agent has notified the Building Inspector that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Building Inspector to make a final inspection thereof, and to issue a certificate of occupancy if the building or premises or part thereof is found to conform with the provisions of this Ordinance or, if such certificate is refused, to state the refusal in writing with the cause.

Sec. 12.3. - Establishment of the board of adjustment.

The Board of Adjustment of the Town of Elberta, Alabama, is hereby established; and the following rules are set forth to govern its operation:

- 12.3.1 *Membership.* The Board of Adjustment shall consist of five (5) members, appointed by the Mayor upon recommendations provided by the Town Council, for overlapping terms of three (3) years.
- 12.3.2 *Initial Appointment.* The initial appointment of the Board of Adjustment shall be as follows: two members for one year; two members for two years; and one member for three years.
- 12.3.3 *Vacancies.* 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.
- 12.3.4 *Public Offices Held.* No member shall hold any other public office or position, except that one member may be a member of the Town Planning Commission.
- 12.3.5 *Rules of Procedure.* The Board of Adjustment shall observe the following procedures:
 - 12.3.5.1 Said board shall adopt rules in accordance with the provisions of this ordinance for the conduct of its affairs.
 - 12.3.5.2 Said Board shall elect one of its members, other than a member of the Planning Commission, as Chairman, who shall serve for one year or until he is re-elected or his successor is elected. Said Board shall appoint a Secretary.
 - 12.3.5.3 The meetings of the board shall be held at the call of the chairman and at such other times as said board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena.
 - 12.3.5.4 All meetings of said board shall be open to the public.
 - 12.3.5.5 Said board shall keep minutes of its proceedings, showing the vote of each member upon question, or if absent or failing vote, indicating such fact, and shall keep records of its examinations and other official actions,

all of which shall be immediately filed in the office of the clerk and shall be a public record.

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

- 12.3.6.1 *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Enforcement Officer, or other administrative official, in the enforcement of this ordinance.
- 12.3.6.2 *Special exceptions.* To hear and decide special exceptions to the terms of this ordinance upon which said board is required to pass under this ordinance.
- 12.3.6.3 *Variances.* To authorize upon appeal 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 will, in an individual case, result in unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the Board of Adjustment that:
- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
 - b. The application of this ordinance to this particular piece of property would create an unnecessary hardship;
 - c. Such conditions are peculiar to the particular piece of property involved; and
 - d. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this ordinance; provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.
- 12.3.6.4 *Use variance not permitted.* Nothing in this ordinance shall authorize the Board of Adjustment to approve a use not permitted by the ordinance for the district in which a building site is located.

Sec. 12.4. - Procedure for requesting a hearing.

Persons requesting a hearing before the Board of Adjustment for an administrative review, special exception or a variance shall observe the following procedures:

- 12.4.1 A completed application form must be filed with the Zoning Enforcement Officer. The application must include all the specified pertinent data including an explanation of the grounds on which the appeal is being made.
- 12.4.2 An application shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the Zoning Enforcement Officer. Such site plan shall include, as a minimum, the following: Lot dimensions with property line monuments located thereon; location and size of existing and proposed; fences, street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application.
- 12.4.3 This space left blank for future use.
- 12.4.4 The Board of Adjustment shall render a decision on any appeal or other matter before it within forty-five (45) days of the date of the public hearing on it.
- 12.4.5 An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the said board or a court of record on application, on notice to the official from whom the appeal is taken and on due cause shown.
- 12.4.6 In exercising the powers granted the Board of Adjustment, the said board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or may modify the order, requirements, decisions or determination of the Zoning Enforcement Officer and may issue or direct the issuance of a zoning compliance

permit.

12.4.7 Limitation, Withdrawal, Citizen Appeals.

- 12.4.7.1 A property owner, or his appointed agent, shall not initiate action for a hearing before the Board of Adjustment relating to the same parcel of land more often than once every twelve (12) months on the same variance.
- 12.4.7.2 Any petition for a hearing before the board may be withdrawn prior to action thereon by the board at the discretion of the person initiating such a request upon written notice to the secretary of the board.
- 12.4.7.3 Any person or persons severally or jointly aggrieved by any decision of the Board of Adjustment may make, within fifteen (15) days thereafter, appeal to the circuit court or like jurisdiction, by filing with such board a written notice of appeal specifying the judgment or decision from which appeal is taken.

Sec. 12.5. - Procedure for requesting a zoning amendment.

The council may, from time to time, after examination, review and public hearing thereon, amend, supplement or change the regulations and zoning districts herein or subsequently established. Proposals for zoning amendments, whether initiated by the Building Inspector, the Planning Commission, or any person, firm or corporation, shall be treated in accordance with the following procedures:

- 12.5.1 An application must be submitted in writing to the zoning enforcement office at least fifteen (15) days prior to the regularly scheduled meeting of the Elberta Planning Commission and must be accompanied by a site plan of the proposed use included in any petition for a zoning amendment. Such site plan shall include the existing land use on adjacent and surrounding properties.
- 12.5.2 The application shall be reviewed by the Planning Commission at its next regular meeting and said commission shall have thirty (30) days from said regular meeting within which to submit a recommendation to the Town Council. If the commission fails to submit a recommendation to the Town Council within the thirty (30) day period, it shall be deemed to have approved the proposed amendment.
- 12.5.3 Before enacting any amendment to this ordinance, a public hearing thereon shall be held by the Town Council with proper notice as required by law. Said notice 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. Due notice shall also be given to the parties in interest of the date, time and place of said hearing.
- 12.5.4 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 and certified by the commission, unless such change or departure be first resubmitted to the commission for an additional review and recommendation. The commission shall have thirty (30) days to resubmit its recommendation.
- 12.5.5 Any petition for zoning amendment may be withdrawn prior to action thereon by the council or Planning Commission at the discretion of the person, firm or corporation initiating such a request upon written notice to the clerk.
- 12.5.6 A property owner, or his appointed agent, shall not initiate action for a zoning amendment affecting the same parcel of land more often than once every twelve (12) months.

(Ord. of 6-17-2003)

Sec. 12.6. - Continuance 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.

Sec. 12.7. - Procedure for zoning newly annexed land.

Land newly annexed to the Town of Elberta shall be immediately placed into a municipal zoning district that is the most similarly analogous to the property within the Town it abuts or its current use, whichever is most applicable. However, a property owner may contract with the municipality for a particular zoning classification of its/his/her property requested to be annexed. Upon annexation, the Town Clerk shall submit a "Notice/Request for Zoning" of said property to the Planning Commission with the Town Council's recommendation and/or any request of the property owner and/or any agreement for zoning with the Town. Thereafter, the "Notice/Request for Zoning" shall follow all the procedures pursuant to procedures for amendments to the Zoning Ordinance.

Sec. 12.8. - Duties and powers of the planning commission.

- 12.8.1 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.
- 12.8.2 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.
- 12.8.3 The Planning Commission shall hear and recommend to the Building Inspector 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.
- 12.8.4 The Planning Commission shall hear and recommend to the Board of Adjustment on all matters of special exceptions and zoning variances.
- 12.8.5 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.

Sec. 12.9. - Penalties and remedies.

- 12.9.1 *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.
- 12.9.2 *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.

Sec. 12.10. - Reversionary clause.

Any parcel or parcels of land rezoned to another use classification under the amendment authority of this ordinance, shall revert back to the prior zoning classification after one (1) year from the date of approval of the rezoning if, by that time, said land is not actually being used for a permitted use in the classification to which it was rezoned. An extension of such time, not to exceed six (6) months, may be granted by the Zoning Administrator under special circumstances upon written request by the applicant.

(Ord. of 9-18-2007)

Sec. 12.11. - Fees.

- 12.11.1 A fee of One Hundred dollars (\$100.00) shall accompany each request for appeal or zoning amendment.
- 12.11.2 A fee of twenty-five [dollars] (\$25.00) for site plans review shall accompany each request.
- 12.11.3 Fees for sign permits shall be forty cents (\$0.40) per square foot per face, but in no case less than twenty-five (\$25.00) dollars.
- 12.11.4 In addition to the fees identified above, the actual costs for legal advertisement of the request and notification of parties and/or any other costs or expenses for professional review of plans and/or specifications of the applicant at the sole discretion of the Planning Commission in interest shall be paid by the applicant prior to processing the application and if any additional amounts are due for any other fees or expenses same shall be paid before any decision by the Board of Adjustment or the Building Inspector.
- 12.11.5 An administrative fee of twenty-five dollars (\$25.00) shall accompany each Land Use Certificate. This fee is separate from any building permit fees charged by the permitting department.

(Ord. of 6-17-2003; Ord. of 9-18-2007)

APPENDIX

APPLICATION FOR RESTRICTIONS VARIANCE

STATE OF ALABAMA)

TOWN OF ELBERTA)

COUNTY OF BALDWIN)

This is to certify that I (we) the undersigned do hereby request the Elberta Board of Adjustment to grant a variance from the restrictions of the Zoning Ordinance as indicated below, and for the reasons stated:

1) Article(s) and Section(s) for which this variance is requested:

Section	Article

2) Nature of variance requested:

3) Reason for request:

Dated this _____ day of _____ / _____ / _____, 20 _____ .

Owner or Authorized Representative

APPLICATION FOR ZONING AMENDMENT

STATE OF ALABAMA)

TOWN OF ELBERTA)

COUNTY OF BALDWIN)

This is to certify that I (we) the undersigned do hereby request the Town of Elberta to grant a zoning amendment for a property and reasons identified below:

1) Description of property for which amendment is requested:

- a) Address _____
- b) Name of Subdivision plat _____
- c) Lot numbers involved in change _____
- d) Total acreage of change _____
- e) Recorded in Plat Book Number _____
Page Number _____
- f) Owned in whole by the undersigned? _____
- g) If owned in part, name(s) of co-owner(s):

2) Zoning change requested:

- a) Present classification of property _____
- b) Reclassification desired _____
- c) Character of neighborhood _____

3) Reasons for requesting change:

4) The following attachments must accompany the request for zoning amendment:

- a) Two copies of a list of the names and addresses of the owners of all properties lying within one hundred (100) feet of any part of the property proposed to be rezoned.
- b) Two copies of a map or plat, drawn to scale, showing the existing and proposed zoning reclassification and other pertinent information.
- c) Two copies of the legal description of the property to be rezoned.
- d) A check for the required fees in compliance with the Zoning Ordinance.

5) Certifications:

a)	Applicant's Name	_____
	Address	_____
	Telephone Number	_____
b)	Date	_____
		_____ Owner
		_____ Owner