

## APPENDIX A - ZONING

## PREAMBLE

AN ORDINANCE, IN PURSUANCE OF THE AUTHORITY GRANTED BY VOLUME 10, TITLE 11, CHAPTER 52, ARTICLE 4, CODE OF ALABAMA 1975, AS AMENDED AND SUPPLANTED BY ALL APPLICABLE LAWS TO PROVIDE FOR THE ESTABLISHMENT OF DISTRICTS WITHIN THE CORPORATE LIMITS OF FOLEY, ALABAMA: TO REGULATE WITHIN SUCH DISTRICTS THE HEIGHT, NUMBER OF STORIES, AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE PERCENTAGE OF LOTS THAT MAY BE OCCUPIED, THE SIZE OF YARDS AND OTHER OPEN SPACES, THE DENSITY OF POPULATION AND THE USE OF BUILDINGS, STRUCTURES AND LAND: TO REPEAL ALL EXISTING ZONING ORDINANCES AND TO PROVIDE METHODS OF ADMINISTRATION OF THIS ORDINANCE AND PENALTIES FOR THE VIOLATION THEREOF.

THE PUBLIC WELFARE REQUIRING IT, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FOLEY, ALABAMA AS FOLLOWS:

## ARTICLE I. - SHORT TITLE

This Ordinance, and any amendments to the same, shall be known as the Zoning Ordinance of Foley, Alabama (sometimes referred to herein as the "Ordinance"), and the map herein referred to, identified by the title "Zoning Map" of Foley, Alabama shall be further identified by the signature of the Mayor of Foley and attested to by the City Clerk. The Zoning Map of Foley is hereby adopted and made a part of this Ordinance. The Zoning Map is filed with the City Clerk of Foley at the time of the introduction of this Ordinance, and it will remain on file in the office of the City Clerk as amended from time to time. Upon the adoption of this Ordinance, the Zoning Map shall show by endorsement thereon the date of such adoption.

## ARTICLE II. - DEFINITIONS

## Sec. 2.1 - Definitions Applicable to This Ordinance.

For the purpose of this Ordinance words used in the present tense include the future and past tense, the singular includes the plural, the plural includes the singular, the male gender includes the female and the female gender includes the male. Words and terms have their common meaning and definition and are further, more specifically defined as follows:

*Accessory Dwelling Units (ADU):* A second dwelling unit that is either contained within the structure of a single family dwelling unit or in a separate accessory structure on the same lot as the principal residential building for use as a complete, independent living facility with provisions within the accessory dwelling for cooking, eating, sanitation and sleeping. Such a dwelling is an accessory use to the principal residential building and includes accessory apartments, garage apartments and guesthouses. Recreational Vehicles cannot be considered as an ADU.

*Accessory Structure:* A structure that:

- A. Is subordinate to and serves the principal building or principal use;
- B. Is subordinate in area, extent, or purpose to the principal use served;
- C. Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served;
- D. Is located on the same zoning lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot with the building or use served; and
- E. Shall not include kitchen facilities.

*Accessory Use:* A use customarily incidental and subordinate to the principal use of the building or land on which the accessory use exists. An accessory use must be located on the same lot or in the same building with the principal use of the land or building.

*Adjoining Lot:* A lot or parcel of land that shares all or part of a common lot line with another lot or parcel.

*Agriculture:* The science, art, or practice of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation and marketing of the resulting products. This does not include small gardens for personal use (see definition).

*Alley:* A Street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

*Alter:* Any form of the word "alter", including alteration and altered, shall mean any of the following:

- A. Any addition or change to the height, width, shape or depth of a building or structure;
- B. Any change in the location of any of the exterior walls, roof or floor of a building or structure; or
- C. Any change in the interior accommodations of a building or structure

*Amusement:* A recreational facility providing family-oriented entertainment which may include the following: rides, games, water slides, wave pools, boats, performing animals, zoos, aviaries, botanical gardens, museums, theme villages, golf courses, miniature golf courses, theaters, mini-railroads and similar uses.

*Antennas, Aerials, Telecommunication Tower:* Any device or structure used to support or to transmit and/or receive radio, telephone, television or other electromagnetic waves between terrestrially and/or orbital based structures for the purpose of carrying, magnifying or transferring such signals between sending and receiving instruments.

*Apartment:* A building which is used as a residence for three (3) or more families living in separate dwelling units who have only a possessory right and not an ownership interest in any portion of the building. This does not include buildings or portions of buildings advertised or held out as being available for transients.

*Assembly, Places of:* Land or buildings arranged for public assembly or for religious purposes such as, community centers, churches and synagogues, including related facilities for instruction, meeting, recreation, lodging, eating and other integrally related activities.

*Automobile Repair, Major:* A place of business engaged in the repair and maintenance of automobiles and light trucks including the sale, installation, and servicing of mechanical equipment and parts including painting, body work, upholstery work, fabrication of parts or rebuilding of engines.

*Automobile Repair, Minor:* A place of business engaged in the repair and maintenance of automobiles and light trucks including the sale, installation, and servicing of mechanical equipment and parts but not including painting, body work, upholstery work, fabrication of parts, or rebuilding of engines.

*Awning:* A shelter attached to and hanging from a vertical surface of a building without any other support from the ground.

*Bed and Breakfast:* The use of a private residential dwelling by the owner as his primary residence and, simultaneously, for the housing of transients in not more than three (3) guest rooms whether or not any meals are available or are provided. A Bed and Breakfast must be run by the owner/occupant of the building.

*Block:* That portion of land bounded on all sides by the nearest intersecting streets. Alleys may exist within blocks without dividing the land into different blocks.

*Boarding House:* A building or structure which is capable of and used for providing lodging or lodging and meals to more than three (3) persons.

*Building:* Any structure which may be entered and utilized by persons for business, public use, lodging or the storage of goods, and includes any vehicle, railway car, aircraft or watercraft used for the lodging of persons or for carrying on business therein. Where a single building consists of two (2) or more units separately secured or occupied, each unit shall not be deemed a separate building.

*Building Area:* That portion of a lot located inside all the required setbacks and within all the other restrictions on which a particular type of structure or building is permitted by this Ordinance. The building area on one (1) lot may differ depending on the type of structure or building is considered (e.g., accessory structures may be allowed in areas a principal structure is not allowed) The building area shall not include areas on which no structure or building can be built or located, such as areas designated or dedicated for stormwater retention/detention, open ditches, wetlands, and other such areas.

*Building Line:* The line marking the closest point to the street a principal building may be erected pursuant to this Ordinance. For all lots, including corner lots, the building line is on the front yard side of the lot, as determined by this Ordinance.

*Co-location:* The use of one (1) wireless telecommunications tower by more than one (1) wireless telecommunications provider.

*Community Development Director:* Such person or persons designated to be responsible for the administration and enforcement of certain provisions of this Ordinance. The Community Development Designees may include, but are not limited to, the Planning and Zoning Coordinator, Code Enforcement Officer, Environmental Manager, and other Community Development staff.

*Condominium:* Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

*Density:* The number of separate dwelling units allowed per gross residential acre.

*Digital Billboard:* A billboard (off-premises sign) with an electronic changeable copy sign face.

*Drive-In Restaurant:* A restaurant or public eating business so conducted that food, meals, or refreshments are designed to be or are capable of being delivered to the occupants of motor vehicles without requiring the occupants to leave the vehicle.

*Driveway:* Private road connecting to public road. A private road that enables vehicles to travel from a public road to a building.

*Dry Cleaners, Small:* Laundry cleaning enterprises using non-flammable, non-explosive type cleaning solvent which occupy not more than one thousand five hundred (1,500) square feet of floor space; which operate not more than two (2) delivery and pickup trucks; and which employ not more than four (4) persons, exclusive of sales clerks and truck drivers.

*Dry Cleaners, Large:* Laundry cleaning enterprises occupying more than one thousand five hundred (1,500) square feet of floor space and/or employing more than four (4) persons exclusive of sales clerks and truck drivers.

*Dwelling:* A building used, or designed to be used, as a residence. A dwelling does not include buildings or portions of buildings that are used or designed to be used for housing transients.

*Dwelling - Multi-Family:* A dwelling used or capable of being used for housing more than two (2) families in separate units or quarters that are totally independent of one another.

*Dwelling - One Family:* A dwelling used or capable of being used for housing only one (1) family; sometimes referred to herein as a single-family dwelling.

*Dwelling - Two Family:* A dwelling used or capable of being used for housing two (2) families in separate units or quarters that are totally independent of each other.

*Dwelling Unit:* A building or a portion thereof used or designed for residential use by only one (1) family at a time for living and sleeping purposes (e.g., a two family dwelling would have two dwelling units). This does not include rooms or areas that are used or designed to be used for transients.

*Family:* One (1) or more persons occupying a dwelling unit and living as a single or housekeeping unit who are related by blood, legal adoption, marriage, foster children, plus no more than one (1) additional unrelated person; or, up to a maximum of three (3) unrelated persons living together in a dwelling unit; or the residents of a Group Home/Family Care Home, as defined herein.

*Feather Flags:* Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, string, or mounted from any type of pole, designed to move in the wind.

*Fence:* Any artificial obstruction to free movement from one (1) area of land to another area of land which is fixed in the ground and which is not a sign or building, as those terms are defined herein.

*Foley Directional/ Wayfinding Signs:* Signs erected by or on behalf of the City of Foley in the public right of way pursuant to City ordinances and regulations directing travelers to business locations from intersections.

*Footcandle:* A term used to describe a unit of measure of the density of light that falls on a surface. A footcandle is equal to one (1) lumen per square foot. A footcandle measures the amount of illumination on a surface from a light source.

*Garden:* A garden is defined as a space where plants or fruits and vegetables are grown for personal use, not for wholesale distribution.

*Garden-Patio Home (GPH):* A single family dwelling located on its own lot or two (2) single family dwellings connected by a firewall as required by the Building and Fire Codes with only one (1) side yard required per dwelling, with a minimum six hundred (600) square feet of court yard, patio or open space provided per dwelling, or as otherwise stated in this Ordinance.

*Gross Acre:* A measure of land equal to one (1) acre, including all areas of land regardless of whether or not any structure, building or other improvement is capable or permitted to be built on that area.

*Group Home/Family Care Home:* A dwelling shared by ten (10) or less mentally handicapped persons or used as a shelter for drug addicts, battered women or other similarly-situated persons in need, which may in addition, also include up to two (2) resident staff who need not be related by blood or marriage to each other or to any of the persons living within, who live together as a single housekeeping unit in a long-term, family-like environment in which staff persons provide care.

*Habitable Structure:* A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

*Home-Based Business:* The use of a premise principally as a residence but in which one (1) or more people operate a business or commercial enterprise pursuant to the restrictions and provisions contained in this Ordinance.

*Home Occupation:* The use of a premises principally as a residence but in which the inhabitants thereof operate a business or commercial enterprise pursuant to the restriction and provisions contained in this Ordinance.

*Hotel:* Any establishment where sleeping or sleeping and eating accommodations are advertised or held out to be available to transients, whether such establishment be known as a hotel, condotel, apartment hotel, inn, tavern, club, resort, tourist home, tourist court, motel, court, motor court, motor lodge or by other like term, but this term shall not be construed to include apartments, clubs, trailer courts, boardinghouses, rooming houses or portions thereof where single night accommodations are not advertised or held out to be available.

*Illegal Non-Conforming Building/Structure:* Any building or structure which was erected, constructed, modified or altered in violation of the provisions of the then-current Zoning Ordinance.

*Illegal Non-Conforming Lot:* Any lot or parcel of land which, when subdivided or otherwise altered, changed or created, was in violation of the provisions of the then-current Zoning Ordinance.

*Illegal Non-Conforming Use:* Any use which, when commenced, was in violation of the provisions of the then-current Zoning Ordinance.

*Inflatable:* Any device used to draw attention to a specific business through the means of continuous forced air flow to include balloons.

*Institutional Uses:* A use in which people are cared for or live in a supervised environment, having physical limitations because of health or age are harbored for medical treatment or other care or treatment, or in which people are detained for penal or correctional purposes or in which the liberty of the occupants is restricted.

*Intersection:* All areas of land included within two (2) or more different streets which join each other or come into contact with each other where vehicles traveling upon different streets may come in conflict. The junction of an alley or private driveway with a street shall not constitute an intersection.

*Kennel:* A business establishment not operated by a licensed veterinarian, where animals are, bred, raised, groomed, boarded or trained with either indoor or outdoor animal retention facilities.

*Kitchen Facilities:* Facilities and equipment associated with the preparation and storage of food and meals, including the cleaning and washing of related items.

*Legal Non-Conforming Building/Structure:* Any building or structure which was lawfully erected, constructed, modified or altered in conformity with all applicable zoning and municipal ordinances, or pursuant to a variance granted by the Board of Adjustment and Appeals, but which does not comply with one (1) or more subsequently enacted or applicable provisions of this Ordinance.

*Legal Non-Conforming Lot:* Any lot which was lawfully created or subdivided in conformity with all applicable zoning and municipal ordinances, Planning Commission regulations and other laws, or through variance granted by the Board of Adjustment and Appeals, but which does not comply with one (1) or more subsequently enacted or applicable provisions of this Ordinance.

*Legal Non-Conforming Use:* Any use which was lawfully operated in conformity with all applicable zoning and municipal ordinances, or through variance granted by the Board of Adjustment and Appeals, but which does not comply with one (1) or more subsequently enacted or applicable provisions of this Ordinance.

*Livestock:* The term "livestock" or "animal" shall refer to equine or equidae, cows, calves, yearlings, bulls, oxen, sheep, goats, lambs, kids, hogs, shoats, and pigs.

*Living Quarters:* Housing providing facilities for sleeping and bathing.

*Lot:* A designated parcel, tract, or area of land established by plat, subdivision, or as permitted by law. Two (2) or more adjoining lots in identical ownership may be combined to create one (1) lot for purposes of setbacks, distances and areas within or from lot lines.

*Mobile/Manufactured Dwelling:* Any vehicle or similar portable structure, mounted or designed for mounting on wheels, used or intended for use for permanent dwelling purposes including structural additions, except parked and unoccupied camping-type trailers. Any vehicle or structure shall be deemed to be a mobile/manufactured dwelling whether or not the wheels have been removed there from and whether or not resting on temporary or permanent foundations.

*Mobile/Manufactured Dwelling Park:* A tract of land under unified control which has been developed with all necessary facilities and services in accordance with a development plan meeting all the requirements of the Ordinance, which is intended for the express purpose of providing a satisfying living environment for mobile/manufactured dwelling residents on a long term occupancy basis.

*Mobile/Manufactured Dwelling Subdivision:* A tract of land with individually owned lots, which has been developed with all necessary facilities and services in accordance with a development plan meeting all the requirements of this Ordinance and Subdivision Regulations of the City of Foley, which is intended for the express purpose of providing a satisfying living environment for mobile/manufactured dwelling residences on a long term occupancy basis.

*Mobile Food Vendor:* A vehicle-mounted food service establishment designed to be readily moved.

*Mobile Vendors:* Offering or soliciting for sale, or the attempted or actual sale of, foodstuffs, goods, wares, merchandise, labor or services by any person on foot, from a temporary structure (such as a stall, tent or table), or from a vehicle (such as a motor vehicle, bicycle, scooter, trailer, cart, wagon or other form of conveyance).

*Modular Dwelling:* A structure or building designed to be used or actually used as a dwelling unit constructed by the assembly of pre-manufactured units, component part, sections or modules and designed to be placed or actually placed on a permanent foundation.

*Monopole:* A type of wireless telecommunications tower that has one (1) single, self-supporting metal tube securely anchored to a foundation that does not use guy wires. A monopole may have the antennas mounted on the outside of the structure.

*Motel:* A type of hotel that has separate outside entrances for each guest room or suite of rooms and having automobile parking spaces provided for each room. Sometimes referred to herein as a "Motor Court."

*Nit:* A term used to describe a unit of measure for luminance intensity per unit area that is projected in a given direction. A nit is equal to one (1) candela per square meter. A nit measures the luminance of a light source which is closely related to the perceived "brightness" of the light source.

*Non-Conforming Lot:* A lot, which does not conform to one (1) or more provisions of this Ordinance or any subsequent amendments thereto, for the district in which it is located. It may be a legal non-conforming lot or an illegal non-conforming lot depending on when it was created in relation to when the offended provision of the Zoning Ordinance was enacted or applicable to it.

*Non-Conforming Structure/Building:* A building or other structure, which does not conform with one (1) or more provisions of this Ordinance, or any subsequent amendments thereto, for the district in which it is located. It may be a legal non-conforming structure/building or an illegal non-conforming structure/building depending on when it was constructed, erected, altered or modified in relation to when the offended provision of the Zoning Ordinance was enacted or applicable to it.

*Non-Conforming Use:* A use of any structure or of land which does not conform with one (1) or more provisions of this Ordinance, or any subsequent amendments thereto, for the district in which it is located. It may be a legal non-conforming use or an illegal non-conforming use depending on when it was commenced in relation to when the offended provision of the Zoning Ordinance was enacted or applicable to it.

*Offices:* A building or area of rooms used for professional, administrative, clerical and similar uses, but not including residential, retail sales, wholesale distribution, or other such uses.

*Office/Warehouse:* A single building which is used by one (1) owner or one (1) tenant as both an office in one (1) distinct area (which is accessible by the public) and used for the storage of goods and materials for wholesale or retail distribution and sale in another distinct area of the building. It may also function as a distribution center. Storage excludes bulk storage or materials, which are flammable, explosive or hazardous. The office operation may be incidental to the warehouse function attached to it.

*Open Space:* Land which is landscaped or left in a natural state and is intended for natural or scenic preservation and/or active/passive recreational uses and their accessory structures.

*Overlay District:* A zoning district that encompasses one (1) or more underlying zones and that may vary the requirements, uses and standards of the underlying zone.

*Parcel:* A contiguous lot or tract of land owned and recorded as the property of the same persons or controlled by a single entity.

*Parking Space:* The space necessary to park an automobile which shall not be less than an area nine (9) feet wide by twenty (20) feet long for each parking space, and all parking spaces required shall be provided with necessary lanes and maneuvering areas. No two-way entrance or aisle shall be less than twenty-five (25) feet in width. In no event shall an entrance or aisle be less than twenty (20) feet.

*Pennants:* Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, string, or mounted from any type of pole usually in a series, designed to move in the wind.

*Planned Development District (PDD):* A specific zoning district that is subject to this Ordinance and to additional restrictions that may be imposed by the City Council when created.

*Planned Industrial District (PID):* A specific zoning district that is subject to this Ordinance and to additional restrictions that may be imposed by the City Council when created. This is designed to be primarily an industrial development.

*Planned Unit Development (PUD):* A specific zoning district that is subject to this Ordinance and to additional restrictions, which may be imposed by the City Council when created.

*Poultry:* Domesticated fowl collectively, especially those valued for their meat and eggs, such as chickens, turkeys, ducks, geese, and guinea fowl.

*Project Area:* Total land area for the purpose of development with site improvements.

*Public Building:* A building used or designed to be used principally by a municipality, county, state, public corporation, public utility or by the federal government as a courthouse, jail, city hall, auditorium, library, civic center, music hall, art gallery, art center, museum, municipal building, post office, office, warehouse, storage, and other uses deemed necessary by these types of entities.

*Public Building, Governmental:* A building used or designed to be used principally by a municipality, county, state, or by the federal government for purposes directly related to the discharge of their governmental powers, such as for courthouses, jails, city hall, post offices, office spaces, and other similar uses.

*Public Building, Proprietary:* A building used or designed to be used principally by a municipality, county, state, public corporation, public utility or by the federal government for purposes that are proper for these entities but which are not directly related to the discharge of their governmental powers, such as for auditoriums, libraries, civic centers, gymnasiums, music halls, art galleries, art centers, museums, warehouses, storage, and other similar uses.

*Public Street:* See Street.

*Public Uses:* Building, structures and uses of land by a unit of government, including but not restricted to government administration, thoroughfares, libraries, parks, playgrounds, recreation centers, fire stations and other similar uses.

*Recreational Vehicle:* For the purposes of this Ordinance, a recreational vehicle shall consist of any of the following as herein defined:

- A. A travel trailer is a vehicular portable structure mounted on wheels, of such size or weight as not to require special highway movement permits when drawn by a stock passenger automobile; primarily designed and constructed to provide temporary living quarters for recreation, camping, or travel use.
- B. A camping trailer is a vehicular portable structure mounted on wheels, constructed with collapsible partial side walls of fabric, plastic, or other pliable material for folding compactly while being drawn by another vehicle, and when unfolded at the site or location, providing temporary living quarters; and whose primary design is for recreation, camping, or travel use.
- C. A truck camper is a portable structure designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters; and whose primary design is for recreation, camping, or travel use.
- D. A motor home is a structure built on and made an integral part of a self-propelled motor vehicle chassis other than a passenger car, primarily designed to provide temporary living quarters for recreation, camping and travel.
- E. A boat is any recreational vehicle designed or intended for operation on water. Boats and trailers to transport the same shall be considered a recreational vehicle, and subject to the same requirements and restrictions applying to other recreational vehicles.

*Right-of-Way:* See Street.

*Road-Side Stand:* A structure for display and sale of products, with no space for customers within the structure itself.

*Rooming House:* Any building or portion thereof which contains not less than three (3) nor more than nine (9) guest rooms, which are designed or intended to be used, let, or hired out for occupancy by individuals for compensation whether paid directly or indirectly.

*Self-Storage Warehouse:* A structure or groups of structures intended designed or capable of being used as rental storage facilities to individuals, businesses or other entities. Said definition shall also include the term "mini-warehouse".

*Semi-Public Buildings:* Structures for the use of a group the membership of which is open to the public, such as churches, Y.M.C.A. and Y.W.C.A. facilities, private schools, hospitals and nursing homes, colleges and health clubs, country clubs, tennis clubs, etc.

*Sidewalk Vending Unit (Pushcart):* A mobile food vendor business in which food that is prepared elsewhere and ready for consumption at the point of sale, is sold from or out of a non-motorized mobile piece of equipment or vehicle that is removed each day from the location where the food is sold.

*Sign:* Any outdoor display of lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks or combination thereof, are arranged, intended, designed, or used as an advertisement, announcement or direction, or to otherwise make known the designation of an individual, firm, association, profession, business, commodity, or product and which may be visible from any public way, regardless of the method of display.

*Sign, Banner:* Any sign not designed or intended for permanent use made of lightweight fabric or any other similar non-rigid material with no enclosing framework which is mounted to a pole, building, or any other structure at one (1) or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

*Sign, Beacon:* Any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same zone lot as the light source; also, any light with one (1) or more beams that rotate or move. An airport, landing pad, lighthouse, water tower, telecommunications tower, or any other beacon required for health and safety purposes and not used for the purpose of calling attention to a business, product, or other commercial activity, is not considered a beacon for purposes of this Ordinance.

*Sign, Billboard:* An off-premise or off-site sign, other than a locator sign, advertising an establishment, merchandise, product, service, entertainment, etc. which is not sold, provided, manufactured or furnished on the property on which said sign is located.

*Sign, Billboard Double Stacked:* A single freestanding billboard sign structure that has two (2) sign faces aimed in the same direction of travel where one (1) sign face is positioned above the other sign face. A Billboard Double Stacked Sign may or may not have one (1) or more sign faces aimed in the opposite direction of travel.

*Sign, Billboard Merged Stack:* A billboard double stacked sign that has been lawfully converted into a single billboard sign face in compliance with all applicable laws and this Zoning Code.

*Sign, Canopy:* Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

*Sign, Changeable Copy:* A sign upon which the copy may be changed, rearranged, or altered or removed without altering the structure of the sign face or support.

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

*Sign, Construction:* Any sign advertising or listing principal contractors, architects, engineers, and/or any establishment involved in the construction being conducted on any construction site.

*Sign, Copy:* The lettering, parts of letters, words, numerals, figures, phrases, sentences, emblems, devices, designs, trade names, or combinations thereof, either permanent or temporary, that creates the advertisement display on the sign surface or face in either permanent or removable letter form.

*Sign, Electronic Changeable Copy:* A sign or portion thereof that displays electronic information in which each character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays.

*Sign, Face:* The surface area of the sign structure where the copy is displayed.

*Sign, Face Area:* The surface area of any sign structure upon which any copy is displayed, generally but not limited to the entire area contained within the frame or the outside edges of any particular shape, and which is held in place by structural support, or which is mounted to any surface. Only one (1) side of a double-faced sign shall be included in a computation of sign face area.

*Sign, Flag:* Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political division, or other entity or used as a decorative feature.

*Sign, Freestanding:* Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

*Sign, Ground:* Any outdoor advertising display sign which is supported by structures or supports in or upon the ground and independent of support from any building.

*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, Illuminated:* A sign designed or arranged to reflect light from an artificial source.

- A. *Direct Illumination:* Light sources, including spotlights and neon tubing, which is attached to the sign face or structure and directed toward the copy area.
- B. *Electric Message Center:* Light sources arranged in rows, intended and designed to be individually and sequentially lit in such a manner to form letters and/or graphics which may blink on and off, travel, or flash.
- C. *Indirect Illumination:* Light sources not attached to the sign structure or face area, but which are designed to be directed onto the sign face area.
- D. *Internal Illumination:* Light sources enclosed in a sign face.

*Sign, Incidental:* A sign, generally informational, such as "no parking", "entrance", "exit", "loading only", "drive-through", "menu boards", and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

*Sign, Integral Roof:* Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

*Sign, Marquee:* A projecting sign which is attached to or hung from a canopy, or a covered structure projecting from or supported by a building, extending beyond the building line.

*Sign, Multi-Tenant Locator:* A single ground sign which identifies multiple businesses which are all tenants in a single structure, shopping center or complex. A Multi-Tenant Locator Sign must be located on the property that is being leased by the businesses who are displayed on the sign face unless otherwise allowed in this ordinance.

*Sign, Mural:* A decoration or artwork painted on the exterior wall of a building which may be classified as a sign when it contains lettering, trade emblems or logos. When such items are incorporated, the sign specifications shall be as follows:

- A. *Lettering* - shall be localized and the area measured to confirm to the size limitations of this Ordinance.
- B. *Trade emblems and logos* - the entire area of the mural shall be considered to be the sign face area and shall meet the size limitations contained in this Ordinance.

*Sign, Name Plate:* A name plate not to exceed two (2) square foot in area, to identify the owner or occupant of a dwelling or building.

*Sign, Nonconforming:* Any sign which does not meet the requirements of the Zoning Ordinance.

*Sign, Off Premise:* A sign relating to its subject matter which is not located on the site.

*Sign, On Premise:* A sign relating its subject matter to the site on which it is located.

*Sign, Painted Wall:* A sign that is not a mural, but which is painted directly on the surface of a structure.

*Sign, Plaque:* Any sign indicating the name of a building and date and incidental information about its construction.

*Sign, Pole:* Any sign supported by a pole, or poles, and otherwise separated from the ground by air.

*Sign, Portable:* A movable sign that is not permanently attached to either the ground or a structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T- frames; menu and sandwich board signs; handheld signs; caricature signs; balloons and inflatables used as signs; umbrellas used for advertising.

*Sign, Projecting:* Any sign affixed to any building or structure, extending beyond the building wall, structure, or building line by more than twelve (12) inches.

*Sign, Public Property/Right-of-Way:* Any sign which is suspended, projected, or placed on or above a public right-of-way. Any sign projecting from a building or extending over public property shall maintain a clear height of nine (9) feet above the sidewalk and all such signs shall extend no more than within eighteen (18) inches of the curb line.

*Sign, Real Estate:* A sign that advertises the sale, lease, rental or development of property.

*Sign, Revolving:* Any sign erected or constructed to rotate by any electrical, mechanical or natural means.

*Sign, Roof:* Any sign which is erected, constructed, or maintained above the roof of any building or structure, and gains its principal support from the roof or building facade.

*Sign, Shopping Center:* See Sign, Multi-Tenant Locator.

*Sign Special Events:* A sign advertising a planned temporary activity for commercial purposes.

*Sign, Suspended:* A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

*Sign, Temporary:* Any sign that is used only temporarily and is temporarily mounted to supports

*Sign, Temporary Locator:* One (1) sign which identifies one (1) or more businesses located within an unfinished shopping center or commercial complex which is shared by the existing businesses in the shopping center or complex and which is located on a part of the shopping center or complex and which is intended to remain only until other users in the shopping center or complex are identified and a permanent Locator Sign can be erected in its place.

*Sign, Vehicle:* Any sign painted, drawn or affixed to or on a vehicle including an automobile, truck, or trailer.

*Sign Wall:* A sign entirely affixed directly to the wall of a building or the slope of a mansard-type roof, and/or projecting to a point less than twelve (12) inches beyond the wall surface.

*Sign, Window:* Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the right-of-way.

*Site Plan:* The plan drawings of a proposed development on a lot or lots which reflects the existing conditions and proposed changes, including drainage, and any other possible environmental impact.

*Standard Billboard:* A billboard (off-premises sign) that does not have an electronic changeable copy sign face.

*Stealth Monopole:* A monopole that does not have antennas mounted on the outside, but instead has them inside the monopole structure. These look like flagpoles.

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

*Street:* The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

*Street, Private:* Street or road not owned or maintained by the City of Foley whether or not it has public access.

*Street Vending Unit (Food Truck):* A mobile food vendor business in which food that is prepared and made ready for consumption at the point of sale, is sold from or out of a motor vehicle that is removed each day from the location where the food is sold.

*Structure:* Anything constructed or erected which requires location on the ground or attached to something having a location on the ground, including among other things, signs, billboards, fences, walls, antennas, but not including telephone poles or overhead wires, wire fences and other fences less than three (3) feet high, retaining walls or terraces. Generators and HVAC Units are excluded from this definition.

*Structure Height, Maximum:* Unless addressed elsewhere in the Zoning Code, the "Maximum Building Height (feet)" shall be the maximum height in feet of any structure, including buildings, towers, and all other forms of structures.

*Telecommunications:* 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 Structure:* A structure that is intended to be temporary or is capable of being moved from one (1) location to another whether the structure is located on the premises of a fixed facility or whether the stand is located on a lot used for business purposes. A structure that is not attached to a permanent foundation.

*Townhouse:* A building or structure, portions of which are designated for separate ownership for residential purposes, not transient use.

*Townhouse Complex:* A group of more than two (2) townhouses connected by party walls.

*Towing Company Storage Yard:* Each towing company shall have adequate storage space to provide safe-keeping for a minimum of fifteen (15) wrecked, disabled or impounded vehicles. This space shall be enclosed by a six (6) foot chain link fence or wall with a gate under lock and key.

*Traffic Analysis:* Refer to adopted City of Foley Ordinances.

*Transient:* A transient is a person who occupies a dwelling unit on a temporary basis and who does not intend to make the dwelling his residence. Transients typically do not stay in one (1) dwelling unit for more than one (1) week.



*Travel Trailer Park:* A tract of land under unified ownership which has been developed with all necessary facilities and services in accordance with a development plan meeting all the requirements of this Ordinance, and which is intended for the express purpose of providing a satisfactory living environment for travel trailer residents on a temporary basis.

*Uses:* The purpose for which land, a building, or other structure is designed, arranged, or intended, or for which it is or may be occupied or maintained.

*Veterinary Clinic:* An establishment operated by a licensed veterinarian under Alabama law that meets or exceeds all mandatory requirements of the Alabama State Board of Veterinary Examiners, and provides examination, diagnostic and health maintenance services for medical and surgical treatment of animals and is equipped to provide indoor housing and nursing care for animals during illness or convalescence.

*Waterfront Construction Setback Line:* A line running parallel to the shoreline at a specified distance from mean high tide. All principal structures shall be located only landward of this line.

*Wholesale:* Sale of products primarily to retailers, other merchants, or industrial, institutional, and commercial users mainly for resale or business use.

*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 facility:* The equipment and structures located in one (1) location that are involved in receiving telecommunications 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. This includes the tower, antennas, equipment shelter, and related equipment, fixtures, and structures.

*Wireless telecommunications tower:* A structure intended to support equipment used to transmit and/or receive telecommunications signals that exceeds thirty (30) feet in height.

*Yard:* The open space on a lot not covered by the footprint of any principal structure or building. Yards shall be measured from the wall of the structure to the property line using a straight line, and where a minimum size yard is required, the yard shall be the shortest distance between the structure and the property line.

- A. *Front Yard:* The yard extending across the entire width of the lot between the main buildings, including covered porches, and the front property line. On corner lots, the narrower or shorter frontage side shall be considered the front regardless of the location of the main entrance of the dwelling. Where both frontages on a corner lot are equal in size, the front yard shall be the side on which the majority of lots front on that block.
- B. *Rear Yard:* The yard extending across the entire width of the lot between the main buildings, including covered porches, and the rear property line. This is on the opposite side from the front yard.
- C. *Side Yard:* The yard extending along a side lot line, from the front yard to the rear yard, between the main buildings, including covered porches and carports.

*Zoning Administrator:* See Community Development Director

( Ord. No. 19-2006, 3-4-19 )

### ARTICLE III. - PURPOSE AND METHOD

#### Sec. 3.1 - Purpose.

The fundamental purpose of this Ordinance is to promote the public health, safety, morals and general welfare of the people, the community and the area. This Ordinance is also designed to provide for the orderly development and growth of Foley; to avoid congestion of the public roads and streets; to conserve life, property, natural resources, and public funds; to allow for and encourage the most advantageous uses of land, resources and properties for the general good and benefit to the people of Foley, Alabama.

#### Sec. 3.2 - Method.

For the purpose hereinafter stated, the City of Foley is divided into districts of such number, shape and area, and of such community of purpose, adaptability or use, which are deemed most suitable to serve the stated purposes of this Ordinance; to provide for the best general civic use, to protect and preserve the common rights and interests within each district and the general rights, and interests of all; by regulating, limiting, and restricting the location, use, size, type and occupancy of buildings, structures, signs and land.

#### Sec. 3.3 - Zoning Districts.

In order to classify, regulate, and restrict the location of buildings designed for specific uses, to regulate and limit the height, location, type, size and bulk of buildings hereinafter erected or structurally altered, to regulate and limit the intensity of the use of the land area, and to regulate and determine the areas of open spaces within and surrounding such buildings, the City of Foley, Alabama is hereby divided into the following districts.

Designation	General Use	Specific Use
R-1R	Residential Zone	Restricted Single Family
R-1A	Residential Zone	Single Family
R-1B	Residential Zone	Single Family
R-1C	Residential Zone	Single Family
R-1D	Residential Zone	Single Family
R-2	Residential Zone	Single Family & Two Family
R-3	Residential Zone	Multi-Family
R-4	Residential Zone	Single Family & Two Family
GPH-1	Residential Zone	Garden-Patio Homes
TH-1	Residential Zone	Townhouses
MH-1	Residential Zone	Mobile Home/Park Subdivision
PUD	Special Use	Planned Unit Development
PDD	Special Use	Planned Development District
PID	Industrial	Planned Industrial District
B-1	Commercial Use	Central Business District
B-1A	Commercial Use	Extended Business District
B-2	Commercial Use	Neighborhood Business District
B-3	Commercial Use	Local Business District
PO	Office Zone	Preferred Office District
M-1	Industrial Zone	Light Industry
A-O	Agricultural	Open Space/Agricultural Use
OSP	Parks/Public Land	Open Space/Preservation District
H	Historic Overlay	Overlying area of Historic District
FDOD	Foley Downtown	Overlay of Downtown District

#### Sec. 3.4 - Zoning Map.

The boundaries of the districts are shown on the map which shall be known as the "Zoning Map". Unless otherwise shown on said Zoning Map, the boundaries of districts are lot lines, the center lines of streets or alleys or such other historical or recognized lines, or the corporate limit lines as they existed at various times. The Zoning Map may be amended from time to time.

## Sec. 3.5 - Interpretation of District Boundaries and Zoning Ordinance.

The Community Development Director or his/her designee shall make an interpretation of the Zoning Map or this Ordinance upon request of any person. Where uncertainty exists as to the boundaries of any district shown on the Zoning Map the following rules shall apply:

- A. Where boundaries are indicated as following or as approximately following streets, alleys, right-of-ways, section lines, lot lines, or any other natural or artificial line capable of being located on the ground by a surveyor, such lines shall be the boundaries.
- B. In un-subdivided property or tracts where a district boundary divides a lot, the location of such boundaries, unless same is indicated by dimensions, shall be determined by the use of the scale appearing on such maps.
- C. Where boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or to the center lines or alley lines of alleys or to the center lines or right-of-way lines of highways, such boundaries shall be construed as being parallel thereto and at such distance as given, such dimensions shall be determined by the use of the scale shown on said maps.
- D. In case any further uncertainty exists, the Community Development Director shall have the discretion to determine and interpret the Zoning Map. The Community Development Director shall have the discretion to determine and interpret the provisions, scope, purpose and intent of this Zoning Ordinance and to make decisions based on their interpretation of the same.

## ARTICLE IV. - ADMINISTRATION AND REVIEW PROCEDURES

## Sec. 4.1 - General Administration.

The provisions of this Ordinance shall be administered and enforced by the Community Development Director of the City, or his/her designees.

4.1.1 *General.*

The provisions contained in this Article are cumulative to the requirements, provisions, and regulations found elsewhere in this Zoning Ordinance. These Provisions should be read in conjunction with the other provisions of this Zoning Ordinance. In the event of a conflict or discrepancy between any provision found in this Article and any other provision found in this Article, this Zoning Ordinance, or elsewhere, the more burdensome regulation, provision, or interpretation shall apply.

4.1.2 *Interpretation and Purposes.*

In their interpretation and application the provisions of this Ordinance shall be considered minimum requirements adopted for the promotion of the public health, safety, morale, convenience, order, prosperity, and general welfare of the community. Where other Ordinances or regulations heretofore adopted or which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other Ordinances or regulations is mandatory.

## Sec. 4.2 - Building Permit.

Unless elsewhere exempt under the municipal ordinances pertaining to building permits, it shall be unlawful to commence construction of any building or other structure, including accessory structures, fences and signs, or erect temporary field offices, or to commence the moving, alteration, or repair of any structure, until the Building Official of the City 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 a building permit shall be made to the City on forms provided for that purpose.

4.2.1 *Review of Building Permit Applications.*

It shall be unlawful for the Community Development Director of the City to approve any plans or the Building Official to issue a building permit for any construction until he/she has inspected such plans in detail and found them to be in conformity with this Ordinance. Said plan shall include the following, as required:

- A. The actual shape, proportions and dimensions of the lot.
- B. The shape, size, use and location of all buildings, signs or other structures to be erected, altered or moved and of any buildings or other structures already on the lot, both above and below existing grade.

4.2.2 *Approval of Building Permit Applications.*

If the proposed construction, moving, or alteration as set forth in the application is in conformity with the provisions of this Ordinance and other applicable codes and Ordinances, the Building Official of the City shall issue a building permit accordingly.

4.2.3 *Denial of Building Permit Applications.*

If a building permit applicant is denied a permit based on the Community Development Director's interpretation or enforcement of this Ordinance, as opposed to the other codes of the City of Foley, then the applicant may appeal to the Zoning Board of Adjustment and Appeals pursuant to the rules and procedures of this Ordinance, state and local laws, and regulations of the Zoning Board of Adjustment and Appeals.

4.2.4 *Newly Annexed Areas.*

Notwithstanding any other provision of this Ordinance, when land is annexed into the City of Foley and has not yet been zoned, the City Council may, by passage of a resolution, temporarily authorize the Building Official to issue building permits for structures and work located in these newly annexed areas upon such terms as the City Council may impose, until the area is zoned. Any such resolution will not be deemed an amendment to this Zoning Ordinance and will not be deemed a general or permanent Ordinance.

#### Sec. 4.3 - Unlawful Uses/Structures.

Any use of land, dwellings, or structures which is in conflict with or violation of this Ordinance, and which is not a legal nonconforming use, is hereby declared to be a nuisance by the City of Foley. Any structure, dwelling, building, lot, or land that is erected, altered, modified, moved, transferred, or allowed to exist in conflict with or in violation of this Ordinance, and which is not a legal nonconforming structure, building or lot, is hereby declared to be a nuisance by the City of Foley. The City and its officers, employees, and agents are hereby authorized to take any appropriate action to abate all nuisances and to take any appropriate action to protect the health, safety and welfare of the public from such nuisances and to forward the purposes of this Ordinance.

#### Sec. 4.4 - Penalties.

Any person, firm, corporation, or other organization which violates any provision of this Ordinance may be prosecuted in the Municipal Court system of the City of Foley and, upon conviction, fined not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00) per violation plus costs of court. For continuing violations, each day the violation is suffered or permitted to exist shall constitute a separate violation and offense.

#### Sec. 4.5 - Remedies.

The remedies to the City of Foley contained in this Ordinance are commutative, supplemental, and in addition to any other rights and remedies the City of Foley may have pursuant to state and local law, its police powers, the building codes of the City of Foley and any other property maintenance codes or ordinances now in effect or hereafter adopted by the City of Foley.

#### Sec. 4.6 - Severability Clause.

If any section, subsection, 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, subsection, clause, provision, or portion of this Ordinance which is not in and of itself invalid or unconstitutional.

### ARTICLE V. - AMENDMENT

#### Sec. 5.1 - Procedure.

The provisions of this Ordinance and the boundaries and districts displayed on the Zoning Map may be amended, supplemented, changed, modified, or repealed by the City of Foley pursuant to the procedure provided by state law and by this Ordinance.

#### Sec. 5.2 - Rezoning by Petition of Property Owner.

When a property owner petitions to have his property rezoned, the following procedure shall be followed:

- A. By noon, a minimum of fifteen (15) working days prior to a regularly scheduled Planning Commission meeting, the applicant shall submit to the Community Development Director or his/her designee:
  1. The required fee as established by the City Council which is intended to help defray the cost of processing, administering, and advertising the application.
  2. A map, drawn to scale, indicating:
    - a. The actual shape of the parcel(s) and legal description of property; and
    - b. Completed application form.
  3. A list of the names and mailing addresses of all property owners whose property abuts and shares a substantial common boundary with the land sought to be rezoned. This includes land which is contiguous to the land sought to be rezoned but is separated from it by a road, right-of-way, or by water.
  4. The Community Development Director shall review the application for completeness and conformance to the requirements of this section. If the application is incomplete, inaccurate, or untimely, as determined by the Community Development Director, the applicant shall be notified of the deficiency. If the deficiency cannot or is not cured in time to properly advertise notice prior to the next Planning Commission meeting, the application will not be advertised or presented to the Planning Commission.
- B. Prior to the Planning Commission meeting at which the rezoning is to be initially considered, the Community Development Director shall notify all adjacent property owners and the applicant of the requested rezoning by sending notice via certified mail. The Community Development Director shall also publish notice of the requested rezoning in a newspaper of general circulation in the City of Foley twice prior to the Planning Commission meeting. Both notices shall include:

1. The location of land sought to be rezoned;
  2. The nature of the rezoning request (indicating the current zoning of the site and the requested rezoning classification);
  3. The time, date and location of the Planning Commission meeting at which the rezoning request is to be reviewed; and
  4. The fact that a public hearing will be conducted to consider the rezoning request.
- C. After the public hearing the Planning Commission may require additional information or documentation from the applicant or from City staff. After due consideration of the comments made at the public hearing, the reports from staff members, and the concerns of the Planning Commission members, the Planning Commission shall render a decision on the application. The Planning Commission's decision shall be communicated to the City Council in the form of a recommendation.
- D. Upon receipt of the recommendation of the Planning Commission in favor of a request for rezoning, the City Council shall follow Code of Alabama procedures.
- E. When the City Council denies a rezoning request, the Planning Commission shall not reconsider the same request for a period of six (6) months. Each time the City considers a zoning or rezoning request by an applicant, the prescribed administration fee must be paid.

#### Sec. 5.3 - Initial Zoning and Zoning Amendments Upon the City of Foley's Initiative.

The Planning Commission may, upon its own initiative, hold public hearings for the consideration of any proposed amendment to the provisions of this Ordinance, to the rezoning or initial zoning of property, or to the altering, amending or changing of the zoning district boundaries or designations after giving notice of the public hearing in accordance with the provisions of Section 5.2 of this Article, except that property owners are only notified by mail when their property or property abutting their property is being considered for rezoning. The Planning Commission will report its recommendation, whether favorable or unfavorable, to the City Council.

### ARTICLE VI. - GENERAL REGULATIONS

#### Sec. 6.1 - General Use Requirements.

The following general regulations pertain to the administration, enforcement, and compliance with this Ordinance.

##### 6.1.1 *Application of This Ordinance.*

No structure shall be constructed, erected, placed, maintained or permitted to exist, and no land, structure, dwelling or building shall be used within the corporate limits of the City of Foley, as they may now or hereafter exist, except as specifically authorized by this Ordinance.

##### 6.1.2 *Prohibitions.*

Except as otherwise expressly provided in this ordinance;

- A. No land may be used except for a purpose permitted in the district in which it is located;
- B. No building or structure shall be used except for a use permitted in the district in which the structure or building is located;
- C. No building or structure shall be erected, enlarged, reconstructed, moved, or altered; to include change in use; except in conformity with the regulations, prohibitions and limitations on buildings and structures for the district in which the building or structure is located;
- D. The minimum building line, parking spaces, open spaces, including lot area per family, required by this Ordinance for each and every building existing at the time of the passage of this Ordinance or for any building hereafter erected, shall not be encroached upon or considered as building or open space for any other building, nor shall any lot area be reduced below the requirements of this Ordinance;
- E. Every building hereafter erected or altered shall be located on a lot as herein defined. Only one (1) principal building and its customary accessory building may be erected on any lot in any R-1R, R-1A, R-1B, R-1C, R-1D, R-2, R3, R4, GPH-1, TH and MH-1. Accessory structures shall not include kitchen facilities; unless an approved Accessory Dwelling Unit has been approved by the Board of Adjustment and Appeals.
- F. Lots shall meet the minimum lot size requirements specified herein for their zoning district except that where public utilities are not available. Baldwin County Health Department Regulations shall apply in these instances.

##### 6.1.3 *Joint Occupancy.*

No building, structure or dwelling unit shall be erected, structurally altered for, or used as a family dwelling simultaneously with any non-residential use, except as specifically allowed or in home-based businesses and home occupations.

##### 6.1.4 *Public Utilities.*

Utility structures including, but not limited to, poles, wires, cross arms, transformers attached to poles, guy wires, insulators, conduits and other facilities necessary for the transmission or distribution of electric power or to provide telephone service or cable television, and pipe lines, vents, valves, hydrants, regulators, meters and other facilities necessary for the transmission or distribution of gas, oil, water or other utilities may be constructed, erected, repaired, maintained or replaced within any district within the City. This is not to be construed to include the erection or construction of buildings. Electric substations are conditional uses in all zoning districts of the City.

## Sec. 6.2 - Non-Conforming Uses, Lots and Structures.

Within the districts established by this Ordinance or amendments that may be later adopted, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before the Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendment. These lots, uses and structures are to be considered "Legal Non-Conforming". It is the intent of this Ordinance to permit these legal non-conforming uses, lots and structures to continue, subject to this Ordinance, but not to encourage their survival. It is further the intent of this Ordinance that legal non-conforming uses, lots and structures shall not be enlarged, altered, amended, changed or expanded in any way other than to bring them into compliance with this Ordinance. Uses, lots and structures which do not conform to this Ordinance and which do not fall within the definition of "Legal Non-Conforming" are in violation of this Ordinance and are subject to the penalties and enforcement provided for in this Ordinance and under state and local law.

### 6.2.1 *Restoration to Safe Condition.*

Except as provided in Sections 6.2.3, 22.6, and any other provision of this Ordinance limiting the repair or replacement of legal non-conforming structures when damaged, this Ordinance shall not prevent the restoration of any building or structure to a safe or sanitary condition when required by the proper authorities.

### 6.2.2 *Restoration After Damage.*

No legal non-conforming building or structure which has been damaged by fire, wind, water or any other natural or artificial cause, except for the criminal acts of third parties, to the extent of more than fifty percent (50%) of its current replacement value at the time of such damage, as determined by the Building Official, shall be rebuilt or restored except in conformity with the provisions of this Ordinance. If a legal non-conforming building or structure is damaged by less than fifty percent (50%) of its current replacement value, such damaged portion may be rebuilt or restored to its original non-conforming size, shape or type or in a manner that results in the same or less non-conformity, provided that such rebuilding or restoration is completed within twelve (12) months of the date of such damage. No legal non-conforming building or structure shall be rebuilt or restored in such a manner as to increase or heighten the quantity or type of its non-conformity. Nothing contained herein shall permit or allow a legal non-conforming structure to be renovated or preserved so as to increase the number of years the building or structure will exist.

### 6.2.3 *Abandonment.*

A legal non-conforming use which has been abandoned shall not be reestablished, and any future use shall be in conformity with the provisions of this Ordinance. Whether a use has been abandoned will be determined by the Community Development Director. Abandonment will be found when there is an actual discontinuance of a use coupled with an apparent intent to discontinue a use. Any discontinuance of a use for a continuous period of one (1) year or longer shall be presumed to be abandoned. A legal non-conforming use shall not be changed to another non-conforming use. A legal non-conforming use which is changed or abandoned shall not be permitted to be reestablished.

## Sec. 6.3 - Structures Conforming to Use Regulations But Not Other Regulations.

Notwithstanding any other provision of this Ordinance, a structure or building conforming to the use regulations of a district, but not conforming to other provisions of this Ordinance, may be enlarged or altered provided that such enlargement or alteration conforms to the other provisions of this Ordinance. No structure or building which fails to conform to the current Zoning Ordinance's regulations regarding setbacks, size, shape, height, type or location may be expanded or altered except to bring the structure or building into full compliance with this Ordinance.

## Sec. 6.4 - Buildings to be Moved.

Any building or structure which is to be moved to any location within the city limits of Foley, shall be considered for the purpose of this Ordinance to be a new building under construction, and as such shall conform to the applicable provisions of this Ordinance.

## Sec. 6.5 - Reductions in Lot Area Prohibited.

No lot shall be reduced in area or altered in shape so that the lot itself, the existing yards, or any aspect of the lot or the existing or proposed structures would violate this Ordinance unless and until the Board of Adjustment and Appeals first grants a variance from the offended provisions of this Ordinance.

## Sec. 6.6 - Annexed Property.

At the inception of any efforts to annex property into the corporate limits of the City of Foley, notice of such annexation should be communicated to the Community Development Director. The Community Development Director should take such steps as he/she deems necessary or prudent to recommend to the Planning Commission an initial zoning classification for the area which may be annexed. The Planning Commission's consideration and public hearings on the initial zoning classification may run concurrently with the annexation procedure so that the Planning Commission's zoning recommendation can be made to the City Council as timely as possible. No property may be subdivided by the Planning Commission until it has been zoned.

## Sec. 6.7 - Vacated or Abandoned Right-of-Way.

Whenever any street, alley or other public way is vacated or abandoned by official action of the City of Foley, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of same and all area included therein shall then be subject to all appropriate regulations of the extended district.

## ARTICLE VII. - TELECOMMUNICATION TOWERS

## Sec. 7.1 - Wireless Telecommunications Facilities.

7.1.1 *Purpose.*

The purpose of this section is to establish minimum standards for the location, design, construction, and maintenance of wireless telecommunications facilities to mitigate any adverse consequences to the health, safety, and general welfare of the community in general and the neighboring owners and occupants in compliance with federal and state laws.

7.1.2 *Application Requirements.*

Applicants for a new or modified wireless telecommunications facility must apply for a plan review by the Community Development Department in addition to other required land disturbance permits, building permits, and other required approvals. Applicants proposing to erect new wireless telecommunication towers must also submit the following information as part of the review and permit process:

- A. Photo-simulations of the proposed wireless telecommunication tower taken from the property lines on at least four (4) sides of the proposed tower and the nearest public right-of-way, plus whatever additional photo-simulations taken from additional or different angles, locations, or heights as requested by the Community Development Department;
- B. An affidavit of need from licensed RF engineer who is properly licensed stating that: (1) the proposed wireless telecommunications facilities (tower, antennas, and other components) are actually necessary based on current needs of a particular wireless telecommunications provider; (2) the proposed wireless telecommunication tower is the minimum height necessary to address the current need; and (3) there are no existing telecommunication towers, buildings, or alternative structures available on which the wireless telecommunication provider could co-locate which would address the current need (or, if there are alternative existing towers or structures, what reasonable and diligent efforts have been made by the applicant to secure sufficient rights on such structure); and
- C. An affidavit from the proposed operator of the wireless telecommunication facilities that its facilities will be operated in strict compliance with the Federal Communications Commission's rules, regulations, and standards concerning RF emissions.
- D. A landscape plan.

If the application is complete and the facilities meet all applicable building codes, and other codes, and if the facilities comply with the standards in sub-section 6.16.3, then the Building Official shall approve the plans within thirty (30) days. If the application is incomplete or the proposed facilities do not meet the applicable codes or the standards in the 6.16.3, and if no variance has been secured, then the Building Official shall deny the application within thirty (30) days.

7.1.3 *Permitted Locations for Wireless Telecommunications Facilities Meeting Certain Standards.*

Wireless telecommunications towers are allowed by right in Industrial zoning districts and in Agricultural-Open Space zoning districts in the City provided that they are not within a historic district and further provided that the wireless telecommunications facility meets the following minimum standards or conditions:

- A. The wireless telecommunications tower is no higher than one hundred twenty-five feet (125') above the ground;
- B. The wireless telecommunications facility is completely fenced and adequately secured to prevent unauthorized access by at least an eight foot (8') high fence;
- C. The wireless telecommunications facility must be landscaped on the outside of the fence to provide an effective, year-round natural vegetative buffer and visual screen to obscure or obstruct a view of the fence and the components inside the fence other than the tower;
- D. The wireless telecommunications tower must be set back from property lines, public rights of way, and all buildings a minimum distance of one hundred twenty-five percent (125%) of the height of the proposed wireless telecommunications tower;
- E. The wireless telecommunications tower must be of a monopole design, and for any proposed wireless telecommunication towers which would be visible at ground level from any portion of land then being put to any of the following land uses, such wireless telecommunication tower must be of a stealth monopole design:
  - 1. Schools;
  - 2. Parks;
  - 3. Public recreational facilities (excluding sidewalks and trails);
  - 4. Historic districts;
  - 5. Residential zoning districts; and
  - 6. Residential areas of mixed use zoning districts.
- F. Any non-stealth wireless telecommunications tower must be designed to be capable of accommodating at least one (1) additional set of wireless antennae by a different wireless telecommunications provider.
- G. The wireless telecommunications facility must not interfere with the operation of any airport or aircraft, must meet all applicable FAA regulations and standards, must not be located in existing aviation easement areas, and must be equipped with such lights and other safety

features as are reasonably requested by the operator of any nearby airports.

*7.1.4 Wireless Telecommunications Facilities Prohibited.*

Any wireless telecommunications facilities that are proposed to be in any other location that permitted in Section 7.1.3, and/or any wireless telecommunications facilities that do not comply with the minimum conditions found in Section 7.1.3, are strictly prohibited. If an application is filed for a variance from any provision of the Zoning Code to allow any wireless telecommunications facility that does not fully comply with Section 7.1.3, and if such variance is granted in whole or in part, then the Zoning Board of Adjustments and Appeals shall also impose such additional, different, and supplemental conditions and requirements on the wireless telecommunications facility to carry out the intent and purpose of this Zoning Code.

*7.1.5 Wireless Telecommunications Antennas on Existing Towers, Buildings, and Structures.*

Wireless telecommunications antennas may be added to or located on existing wireless telecommunications towers (co-location), and such antennas may be added to or located on alternative existing support structures like water towers, buildings, and similar facilities, in all zoning districts so long as the addition of the new wireless telecommunications antennas does not extend above the height of the existing telecommunications tower or does not extend more than ten (10) feet above the alternative support structure.

*7.1.6 Aesthetics and Appearance.*

All wireless telecommunications facilities shall be designed, constructed, and maintained in such a manner to be as aesthetically pleasing as is reasonable and practicable to have the least negative visual impact on the surrounding area as practicable. Wireless telecommunications towers and wireless telecommunications antennas shall be painted a neutral or blending color so as to reduce visual obtrusiveness except as expressly prohibited by Federal Aviation Administration requirements. If a wireless telecommunications antenna is installed on a structure other than a tower, the antenna and supporting wireless telecommunications facilities must be of a color that is identical to, or closely compatible with, the color of the alternative supporting structure so as to camouflage the wireless telecommunication facilities. No signage, symbols, or advertisements may be attached to a wireless telecommunications tower or antenna.

*7.1.7 Obsolete Towers.*

In the event that a wireless telecommunications facility ceases to be used for telecommunications by any wireless provided for the period of one hundred eighty (180) days, the wireless telecommunications facility shall be deemed to be abandoned. Upon such abandonment, the owner of the wireless telecommunications facility or owner of the land shall have an additional one hundred eighty (180) days within which to dismantle and remove the wireless telecommunications facility.

ARTICLE VIII. - RESIDENTIAL—MISCELLANEOUS

Sec. 8.1 - Accessory Structures.

Accessory structures shall conform to the following regulations:

*8.1.1 Accessory Dwelling Units.*

A second dwelling unit that is either contained within the structure of a single family dwelling unit or in a separate accessory structure on the same lot as the principal residential building for use as a complete, independent living facility with provisions within the accessory dwelling for cooking, eating, sanitation and sleeping. Such a dwelling is an accessory use to the principal residential building and includes accessory apartments, garage apartments and guesthouses. Recreational Vehicles cannot be considered as an ADU.

The ADU cannot exceed sixty percent (60%) of the size in square feet of the principal residence. No accessory structure shall be erected in any front yard or any street-side yard on a corner lot. Accessory structures: shall not exceed two (2) stores in height; shall not cover more than thirty percent (30%) of the required yard in which it is located; and shall be at least ten (10) feet from all lot lines and ten (10) feet from any other structure on the same lot.

*8.1.2 Residential Accessory Structures.*

No accessory structure shall be erected in any front yard or any street-side yard on a corner lot. Accessory structures: shall not exceed two (2) stories in height; shall not cover more than thirty percent (30%) of the required yard in which it is located; and shall be at least five (5) feet from all lot lines and ten (10) feet from any other habitable structure on the same lot.

Plant nurseries and greenhouses are permitted provided no sales are made from the premises, and provided further that all accessory structures and material storage facilities larger than three hundred (300) square feet in area are located not less than twenty (20) feet from all property lines, and no closer than ten (10) feet to any other structure.

No accessory structure may be built prior to the primary residence except in AO - Agricultural Open Space.

*8.1.3 Residential Antennas.*

Antennas and aerials for radios, televisions, weather monitoring, and similar pieces of equipment are permitted in addition to other accessory structures provided the unit, dish, rod, or other component of the structure does not exceed fourteen (14) feet in height, ten (10) feet in diameter, and shall meet all setback requirements as set forth in this section of the Ordinance. Roof mounted antennas shall not exceed ten (10) feet in diameter, and shall not extend over fifteen (15)



feet above the height limits established for the district in which it is located; and no such antennas shall be used for any type commercial use or advertising purposes. All other antennas in residential districts shall be permitted only on appeal to the Board of Adjustment and Appeals.

#### Sec. 8.2 - Fences and Walls.

Fences and walls may be erected, placed and maintained, along lot lines as long as they do not exceed six (6) feet in height in all commercial zoning districts. No fence or wall located in a required front yard shall exceed a height of three (3) feet.

( Ord. No. 19-2006, 3-4-19 )

### ARTICLE IX. - COMMERCIAL—MISCELLANEOUS

#### Sec. 9.1 - Commercial Accessory Structures.

No accessory structure shall be erected in any front yard or any street-side yard on a corner lot. Accessory structures: shall not exceed two (2) stories in height; shall not cover more than thirty (30) percent of the required yard in which it is located; and shall be at least five (5) feet from all lot lines and ten (10) feet from any other habitable structure on the same lot. Temporary accessory structures may be permitted on a short term basis.

##### 9.1.1 *Temporary/Mobile Structures Used for Business.*

- A. Vendors may operate on private property with written permission from the property owners. The parcel must be zoned for non-residential uses or may be placed on public property within approved areas. Any public property use must be approved by Mayor and Council prior to any permits being issued. These temporary/mobile structures may be allowed for a period not to exceed a total of three (3) months during a single calendar year.
- B. Mobile food vending units shall be located at least ten (10) feet away from the nearest building unless otherwise approved by the City of Foley Fire Department. Vendors shall serve only walk-up customers, not customers in a motor vehicle; shall not broadcast loud music or advertisements; no signage is allowed except signage affixed to the mobile vending unit identifying the vendor and menu/price information; and, vendors must provide for adequate waste collection from their customers. Vendors must operate in a safe and sanitary manner approved by the Alabama Health Department.

( Ord. No. 19-2006, 3-4-19 )

#### Sec. 9.2 - Metal Building Facades.

All metal buildings constructed along major arterial, minor arterial and collector streets (as defined in Resolution No. 3213-07 and amendments) are required to have a façade which may be composed of stucco, brick, scored concrete, split-face concrete block, wood or a combination of these materials. This does not include architectural panels that are part of a business brand or part of an overall architectural design. This standard applies to:

- A. City zoning districts including B1, B1A, B2, B3, PO and commercial/industrial portions of PUD, PDD and PID.
- B. No more than twenty-five (25%) percent of any façade shall be composed of metal siding.
- C. The requirement is for any portion of the structure that faces a public right-of-way.
- D. The facades shall extend for a minimum of ten (10) feet along building elevations not adjacent to a thoroughfare.
- E. This requirement is not applicable to non-habitable accessory structures and structures located more than two-hundred (200) feet from the nearest street as defined above.

( Ord. No. 19-2006, 3-4-19 )

### ARTICLE X. - PARKING/LANDSCAPING/BUFFER REQUIREMENTS

#### Sec. 10.1 - Parking Requirements.

- A. Off-street automobile parking spaces shall be provided with vehicular access to a street or alley, and shall be equal to at least the minimum requirements for the specific land use as herein provided.
- B. The required number of parking spaces for any number of separate uses may be combined in one (1) lot, but the required space assigned to one (1) 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.
- C. These standards shall not apply to B1, Central Business District, where on-street parking is provided.
- D. Parking Schedule:
  1. One (1), two (2), and multi-family dwellings; manufactured housing park - Two (2) spaces for each dwelling unit.
  2. Hotels, motels, and tourist homes - One and one-tenth (1.1) spaces for each guest bedroom.

3. Churches, auditoriums, stadiums, ball fields, civic centers and similar uses - One (1) parking space for each five (5) seats.
4. Schools - Elementary or middle school - Two and one-half (2.5) spaces per classroom. High school - Seven (7) spaces per classroom.
5. Hospitals, nursing homes, homes for aged and similar uses - One (1) space for each four (4) beds.
6. Industrial/manufacturing - One (1) space for each five hundred (500) sq. ft. of gross floor area.
7. Warehouses - One (1) space for each three thousand (3,000) square feet of gross floor area.
8. Restaurants - One (1) space for each four (4) seats.
9. Accessory Dwelling Units - One (1) space for each unit.

Any use not specified by this ordinance shall require one (1) parking space for each four hundred (400) sq. ft. of gross floor area in the building.

10.1.1 *Use and Maintenance of Parking Lots (Non-Residential).*

Off-street parking for non-residential uses:

- A. Shall not be used for the parking or storage of automobile trailers.
- B. Shall not be used for the sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies.
- C. Shall be graded for proper drainage and provided with a surface maintained at all times in such manner as to prevent the release of dust and to be free of dust, trash and debris.
- D. Shall be provided with entrances and exits so located as to minimize traffic congestion.
- E. Shall be lighted in such a manner that they neither unreasonably disturb occupants of adjacent residential properties, nor interfere with traffic yet adequately light the parking area, entrances and exits.
- F. May not have more than one (1) attendant shelter building which shall conform to all setback requirements for structures in the district, and which shelter building shall contain not more than fifty (50) square feet of gross floor area.
- G. May have a sign for identification of the use, provided it complies with the following requirements:
  1. Such sign shall not exceed twenty (20) square feet in area, or five (5) feet in height.
  2. Such sign may be illuminated by a non-oscillating, concealed light source, but illumination by any spotlight or floodlight shall be prohibited.

10.1.2 *Design and [Landscaping] of Off-Street Parking Lots Consisting of Ten (10) or More Parking Spaces.*

The design and appearance of parking areas is intended to enhance and be compatible with the character of the community while making the area more visually appealing. Toward this objective, the following standards shall be observed in the construction of off street parking area construction accommodating ten (10) or more parking spaces as otherwise defined herein:

- A. A minimum of ten percent (10%) of the total interior area intended for off-street parking shall be suitably landscaped. Such landscaping to include the placement of a shade tree at intervals approximately fifty (50) linear feet with a minimum of five (5) shrubs per shade tree.
- B. Interior portions of the parking area shall be broken by provision of landscaped islands.
- C. A maximum of twelve (12) parking spaces in a row will be permitted without an island.
- D. Each landscaped area must be a minimum of sixteen (16) square feet if it is to be counted toward the minimum landscaped area requirement.
- E. Landscaped areas shall be protected from vehicular encroachment by the use of curbing.
- F. Legal non-conforming off-street parking facilities may continue until they are expanded by more than five percent (5%) of its existing parking capacity at which time the entire parking area must be brought into conformity with this Ordinance.
- G. Cross-visibility at the intersection of any combination of streets, alleys or driveways, landscaping shall be so planted and maintained as to provide unobstructed visibility between the heights of two and one-half (2 ½) feet and fifteen (15) feet within an area defined by projecting lines parallel to and twenty five (25) feet from the point of intersection of curb lines projected.
- H. The owner, tenant, agent of either and other person in charge of premises shall be jointly and severally responsible for the compliance with this section of the ordinance as well as the maintenance of all landscaping, landscaped areas and incidentals as required by this ordinance. All trees and other plant material shall be kept in a healthy, living state and grounds shall be kept free of rubbish, refuse, and debris. Grass and shrubbery shall be kept neatly trimmed in accordance with applicable municipal ordinance.

10.1.3 *Off-Street Loading.*

On the same lot with every structure or use hereafter erected or created, there shall be provided and maintained space for loading and unloading of materials, goods, or things, and for delivery and shipping, so that vehicles for these services may use this space without encroaching on or interfering with the public use of streets and alleys by pedestrians and vehicles.

Where any structure is enlarged, or any use is extended so that the size of the resulting occupancy comes within the scope of this Section, the full amount of off-street loading space shall be supplied and maintained for the structure or use in its enlarged or extended size. Where the use of a structure or land or any part thereof is changed to a use requiring off-street loading space the full amount of off-street loading space shall be supplied and maintained to comply with this ordinance.

For the purpose of this Section, an off-street loading space shall be an area of at least twelve (12) feet wide by forty-five (45) feet long with fourteen and one-half (14 ½) foot vertical clearance. Each off-street loading space shall be accessible from a street or alley, and arranged for convenience and safe ingress and egress by motor truck and/or trailer combination.

Off-street loading facilities supplied to meet the needs of one (1) use shall not be considered as meeting the off-street loading needs of any other use.

No area or facility designated, designed or used to satisfy the off-street parking requirements of this Ordinance shall be used or counted towards the off-street loading requirements of this Ordinance.

Nothing in this section shall prevent one (1) off-street loading zone to be used by more than one (1) business, building, use or entity provided that the off-street loading facility is: (1) at least equal to the combined size and capacity requirements of all the several businesses, buildings, uses or entities who share the off-street loading facility; (2) located on the same lot as all the businesses, buildings, uses and entities; and (3) located and arranged so that it is capable of being conveniently used by all the users of the facility.

Plans for buildings or uses requiring off-street loading facilities under the provisions of this Article shall clearly indicate the location, dimensions, clearance, and access of all such required off-street loading facilities.

#### 10.1.4 *Off-Street Loading Space.*

Off-street loading space shall be provided and maintained in accordance with the following schedule:

- A. For each retail store, warehouse, wholesale establishment, industrial plant, factory, freight terminal, market, restaurant, mortuary, laundry, dry cleaning establishment, or similar use which has an aggregate floor area of:
  1. Less than ten thousand (10,000) square feet: Zero (0) spaces.
  2. Ten thousand (10,000) square feet or more, but less than twenty-five thousand (25,000) square feet: one (1) space.
  3. Twenty-five thousand (25,000) square feet or more, but less than sixty thousand (60,000) square feet: two (2) spaces.
  4. Sixty thousand (60,000) square feet or more, but less than one hundred twenty thousand (120,000) square feet: three (3) spaces.
  5. One hundred twenty thousand (120,000) square feet or more, but less than two hundred thousand (200,000) square feet: four (4) spaces.
  6. Two hundred thousand (200,000) square feet or more, but less than two hundred ninety thousand (290,000) square feet: five (5) spaces.
  7. Two hundred ninety thousand (290,000) square feet or more: five (5) spaces plus an additional space for each additional ninety thousand (90,000) square feet over two hundred ninety thousand (290,000) or any portion thereof.
- B. For each auditorium, convention hall, exhibition hall, museum, hotel, office building, sports arena, stadium, hospital, or similar use which has an aggregate gross floor area of:
  1. Less than ten thousand (10,000) square feet: zero (0) spaces.
  2. Ten thousand (10,000) square feet or more, but less than forty thousand (40,000) square feet: one (1) space.
  3. Forty thousand (40,000) square feet or more: one (1) space plus an additional space for each sixty thousand (60,000) square feet over forty thousand (40,000) square feet or any portion thereof
- C. For any use not specifically mentioned in this Section, the requirements for off-street loading for a use which is mentioned, and to which the unmentioned use is similar, shall apply, in the determination of the Community Development Director.

#### 10.1.5 *Residential Lots That May Be Used for Off-Street Parking.*

The Board of Adjustment and Appeals may allow property zoned for residential use to be used by an abutting non-residential enterprise for off street parking if the Board determines that the residential property will not be substantially or permanently injured and that the neighboring residential area will not be adversely affected by the use of the residential lot for parking. The owner or occupant of the land on which the non-residential enterprise is conducted must own the residential lot; no fee may be charged for parking on the residential lot; and the residential lot may not be used for off-street loading. The abutting lots may be separated by a street or alley. The Board may require certain conditions and safeguards for the adequate protection of the adjoining property and subject property.

( Ord. No. 19-2006, 3-4-19 )

### Sec. 10.2 - Buffers.

Buffers shall be provided in accordance with the requirements of Tables 10.2.4 and 10.2.5 and as described in this section. In cases where buffers are required or deemed necessary for the protection and/or separation of uses on abutting lots, the following provisions shall constitute the minimum requirements for each unless otherwise specified by the reviewing authority in individual cases. For the purposes of this Section, "fences" and "walls" shall have the same meaning, but shall not include the term "retaining wall".

#### 10.2.1 *General Requirements.*

- A. One hundred (100) percent of the applicable buffer requirements shall be the responsibility of the developing land use, except when the new use is developed abutting an existing more intensive use developed prior to the adoption of these standards and for which no buffer is in place. In this case, the new use shall be responsible for providing a minimum of fifty (50) percent of the required buffer.
- B. Whenever the proposed use abuts an existing use on a property that is designated for another use within the Comprehensive Master Plan, the

approving authority may modify the required buffer in accordance with the projected use.

- C. Whenever the proposed use abuts an existing use in a district in which such neighboring use is nonconforming, the approving authority may modify the required buffer in accordance the type(s) of use permitted by the nonconforming use's zoning classification or projected by the Comprehensive Master Plan, whichever is less.
- D. Whenever the proposed use abuts a vacant property, the buffer required shall be based on the zoning of the abutting property or the use projected by the Comprehensive Master Plan, whichever is less.
- E. If the use relationships between two (2) abutting lots changes so that a lesser buffer would be required, the width of the buffer may be reduced accordingly.
- F. If the required buffer abuts a public right-of-way, up to one-half (½) of the right-of-way width may be counted toward the buffer width requirement.
- G. Golf courses, playfields, stables, swimming pools, tennis courts and other recreational facilities; parking and other vehicular use areas; buildings, dumpsters, and outdoor storage are prohibited in required buffers.
- H. Where desirable and upon receipt of a written agreement between the affected property owners, the Commission may permit a pedestrian access way along a wall provided as part of a required buffer, to allow access to and from an abutting residential use.
- I. Buffer requirements may be more stringent if located adjacent to a wetland or stream bank. Refer to City of Foley Ordinances for wetland and stream bank buffer requirements.

#### 10.2.2 *Design Requirements.*

- A. Any required buffer abutting a park or greenway shall be waived in its entirety, if the property owner dedicated that land to be set aside for the required full buffer width to the City for incorporation into the park or greenway, such land dedication shall be deemed acceptable only upon approval of the Mayor and City Council.
- B. In accordance with the following standards, the width of a required buffer may be reduced by up to fifty (50) percent if a wall together with landscaping (including trees) is used and up to twenty-five (25) percent if a berm together with landscaping is used:
  - 1. Any wall shall be constructed in a durable fashion of brick, stone, other masonry materials, wood posts and planks, or metal or other materials specifically designed as fencing materials, or any combination thereof, as may be approved by the reviewing authority. No more than twenty-five (25) percent of the wall surface shall be left open, and the finished side of the wall shall face the abutting property. Chain-link fencing with plastic, metal, or wooden slats shall not be permitted.
  - 2. Walls shall be a minimum of six (6) ft high and shall avoid a stockade appearance. This can be accomplished through any or a combination of the following methods: adding an evergreen hedge on the finished side of the wall, using supports of a different material or by undulating the plan of the wall. Walls over one hundred (100) linear feet shall have no more than fifty (50) percent of their length in a straight line, unless the entire wall is set back five (5) ft or more from the lot line, with evergreen planting provided within such setback.
  - 3. Berms shall be a minimum of four (4) ft in height with a maximum slope of three to one (3:1). Berms in excess of six (6) ft in height shall have a maximum slope of four to one (4:1) as measured from the exterior lot line. Berms shall be landscaped and stabilized to prevent erosion.
- [C.] Refer to the City Ordinances for recommended tree plantings and planting requirements. Native vegetation is highly recommended for buffer plantings.

#### 10.2.3 *Landscaping Requirements.*

- A. Existing natural vegetation, which meets, in whole or in part, buffer planting requirements, may be applied toward the requirements of this Section. All plants shall be suitable for local planting conditions and the intended landscaping purposes. All exposed beds shall be maintained with mulch and shall be a minimum of two (2) inches deep at installation.
- B. Shrubs shall be evergreen and at least thirty (30) inches tall at installation with an average height of five (5) to six (6) ft to be expected as normal growth within four (4) years. However, twenty-five (25) percent of the shrubs may vary from this standard. The permitted variations are that such shrubs:
  - 1. May be deciduous;
  - 2. May be two (2) ft tall when planted, provided an average height of three (3) to four (4) ft is expected as normal growth within four (4) years; and
  - 3. When planted on a berm, may be of a lesser height, provided that the combined height of the berm and planting is at least six (6) ft. after four (4) years.
- C. Deciduous trees shall have a minimum of two-and-one-half (2 ½) inch caliper and be a minimum of ten (10) ft in height at installation. At installation, evergreen trees shall be a minimum of six (6) ft in height and multi-stemmed trees shall be eight (8) ft in height.
- D. All landscaped areas shall be protected from vehicular encroachments by curbs, wheel stops, or other permanent barriers.
- E. Stormwater management and drainage controls required by the City Engineering Department shall be coordinated with landscaping improvements and integrated into the overall site design.

**Table 10.24 Minimum Buffer Requirements**

Developing Uses	Existing Abutting Uses							
	Residential		Institutional	Office	Business	Parks and Greenways		
	Detached dwellings	Townhouses or Multi-Family	low/medium/high					
RESIDENTIAL	Type of Buffer Required							
Zero lot line dwellings	C	none	none	none	none	none		
Townhouses and Multifamily	C	none	none	none	none	none		
Manufactured home and Recreational vehicle parks	C	C	C	C	C	C		
INSTITUTIONAL								
Low intensity	C	C	none	none	none	C		
Medium intensity	C	C	C	none	none	C		
High intensity	B	B	B	none	none	C		
OFFICE								
Clinics/Offices up to 50,000 sf.	C	C	C	none	none	C		
Clinics/Offices greater than 50,000 sf	B	B	B	none	none	C		
BUSINESS								
Amusement; outdoor entertainment and retail	C	C	C	none	none	C		
Retail, shopping centers, and restaurants up to 50,000 sf	B	B	C	none	none	C		
Retail, shopping centers, and restaurants greater than 50,000 sf	B	B	C	none	none	C		
INDUSTRIAL								
Light Manufacturing	A	A	A	B	B	C	C	B

Warehousing and Storage	A	A	A	B	B	C	C	B
Other Light Industrial	A	A	A	A	A	B	B	B
Heavy Industrial	A	A	A	A	A	A	A	A

Table 10.2.5 Requirements by Type of Buffer and Site Acreage												
Site Area (in Acres)												
Type of Buffer	1 or less	1≥2	2≥3	3≥4	4≥5	5≥6	6≥7	7≥8	8≥9	9≥10	greater than 10	
width (ft)	40	50	55	60	65	70	75	80	85	90	100	
A trees per 100 lf	<u>9</u>	<u>9</u>	<u>9</u>	10	10	10	10	<u>11</u>	<u>11</u>	<u>11</u>	12	
shrubs per 100 lf	60											
width (ft)	25	30	35	40	45	50	55	60	65	70	75	
B trees per 100 lf	6	6	7	7	8	8	<u>9</u>	<u>9</u>	10	10	<u>11</u>	
shrubs per 100 lf	40											
width (ft)	20	25	30	35	40	45	50	55	60	65	70	
C trees per 100 lf	3	4	5	5	6	6	7	7	8	8	<u>9</u>	
shrubs per 100 lf	20											

( Ord. No. 19-2006, 3-4-19.)

ARTICLE XI. - SITE PLAN REVIEW

Sec. 11.1 - Site Plan Review.

A zoning site plan review is a procedure designed to assist a developer in interpreting the Zoning Ordinance so that proposed developments will stand a better chance of not violating this Ordinance. Ultimate responsibility for compliance with this Ordinance rests with the land owner, developer, tenant, or person who is responsible for the building, structure, lot or use.

A zoning site plan review shall be required to be made in all cases on new construction, remodeling or refurbishing of existing structures, demolition and rebuilding on existing lots, and the change of occupancy or use of any structure, regardless of the district.

A conceptual review may be performed with the Community Development Director, and/or other City Staff during the planning stages of a project, but this will not be considered a formal review. Formal reviews will only be made on submitted, finalized plans.

Site plans may be required to be submitted to the Planning Commission for input in cases where the proposed development meets the following criteria:

- A. Multi-family and commercial developments where the total area exceeds three (3) gross acres.
- B. Commercial developments where the total structure area exceeds fifty thousand (50,000) square feet.
- C. Places of amusement over three (3) acres.

The Community Development Director and/or other City Staff will review the site plan and advise the applicant of changes that must be made in the plans so as to comply with the Zoning Ordinance. Such changes shall be accomplished prior to the issuance of a building permit. Site plan review is a service to the applicant that is performed by municipal employees and officers in their official capacities. The failure of the reviewing officials to recognize or notice a violation or the incorrect interpretation of the reviewing officials at the site plan review stage shall not prevent or prohibit the City of Foley and these same officials from enforcing the Zoning Ordinance against an applicant if a structure, lot, or use of land conflicts with this Ordinance.

11.1.1 *Site Plan Contents.*

- A. Boundary survey including acreage and easements;
- B. Location of bordering right-of-ways;
- C. Location, occupancy type, square footage, height & setbacks of proposed structures;
- D. Parking spaces including number, size & ADA, sidewalks, loading dock if required, total percent of landscaping.
- E. Schematic with stormwater pond location and basic size.
- F. Location and size of proposed signage.
- G. The site plan shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals one hundred (100) feet and of such accuracy that one (1) can readily interpret the site plan, and shall include more than one (1) drawing where required for clarity.

ARTICLE XII. - BED AND BREAKFAST REQUIREMENTS

Sec. 12.1 - Bed and Breakfast.

Bed and Breakfasts shall be a use permitted on appeal in all residential areas and other areas where residences are either permitted or permitted on appeal.

12.1.1 *Bed and Breakfast Requirements.*

No residential dwelling structure shall be erected solely for the purpose of creating a Bed and Breakfast use. Only existing structures shall be permitted for this use, and only upon approval for such use as a home occupation, a use permitted on appeal where residential uses are permitted or permitted on appeal, by the Board of Adjustments and Appeals. The proposed Bed and Breakfast will be in harmony with the surrounding neighborhood. Where conditions are attached by the Board of Adjustment and Appeals, they shall be included as part of the business or building permit if home modification is required.

It is the intent of this Ordinance that Bed and Breakfast uses in an area where they are, or may be permitted, create no greater impact than that of any private residence with temporary houseguest. In line with the general considerations above, the following site and design criteria are established:

- A. The architectural integrity of existing interior spaces of the home shall be maintained. Only such construction and remodeling as may be necessary to meet health, safety, and sanitation requirements shall be permitted. Any modifications proposed shall be approved by the Building Official.
- B. Exterior modifications to the structure or to the grounds shall not alter the appearance of the home from that of a single family residence. Only such exterior alterations as are necessary to insure the safety of the structure shall be permitted. Any exterior alterations shall be approved by the Board of Adjustment and Appeals, and the Building Official.
- C. There shall be a minimum of two (2) off-street parking spaces for the principal occupants of the residence, and a minimum of one (1) additional parking space per guest room. The additional parking spaces shall not be located in any required front or side yard setback area and shall be screened from the view of adjacent properties by natural or artificial means.
- D. No more than one (1) identification sign shall be permitted for the Bed and Breakfast use. Such signs shall state only the name and street address of the establishment. It shall not exceed four (4) square feet in sign face area. No other signage or advertising copy such as Vacancy/No Vacancy, Rent/Lease, etc. is permitted.
- E. A Bed and Breakfast homeowner shall not offer weekly or monthly rentals, nor shall a guest room be rented to the same guest for a period longer than nine (9) consecutive days.
- F. No Bed and Breakfast use shall be located within five hundred (500) feet of another Bed and Breakfast use unless approved by the Board of Adjustment and Appeals.
- G. Bed and Breakfast guest rooms shall not contain any cooking facilities and cooking is strictly prohibited in these rooms.

## ARTICLE XIII. - DISTRICT REGULATIONS

## Sec. 13.1 - Regulations Applying to All Districts.

13.1.1 *Uses/Structures Permitted.*

- A. Public utilities, excluding electric and gas substations and water/wastewater pumping stations;
- B. Public buildings of a governmental nature;
- C. Unlighted recreational facilities, including parks, playgrounds, stadiums, etc;
- D. Accessory Structures.

13.1.2 *Uses/Structures Permitted on Appeal.*

- A. Public Utilities such as electric and gas substations and water/wastewater pumping stations;
- B. Public buildings of a proprietary nature;
- C. General hospitals for humans (including nursing homes and assisted living facilities); institutional uses;
- D. Semi-public buildings and uses, including private schools, churches and childcare and adultcare facilities;
- E. Lights for recreational facilities (subject to regulations based on the neighborhood, zoning district, and surrounding area that may limit the time of day and the number and nature of lights allowed);
- F. Public and semi-public buildings with heights greater than three (3) stories or fifty (50) feet;
- G. Accessory Dwelling Units.

13.1.3 *Uses Prohibited.*

- A. On-street and off-street parking of motorized vehicles in excess of ten thousand (10,000) pounds and/or with more than six (6) wheels is prohibited in all residential zoning districts and in all residential areas of mixed use districts.
- B. Any occupancy of a dwelling unit by a group of people that do not meet the definition of a "Family" as defined herein.

## Sec. 13.2 - Automobile Filling Stations.

Automobile filling stations, regardless of the district in which they are located, shall, in addition to any other set back requirements, locate pump islands and gas pumps at least ten (10) feet back from all property lines and rights-of-way.

## 13.3 - Reserved.

**Editor's note—** Ord. No. 19-2006, adopted Mar. 4, 2019, deleted § 13.3, which pertained to self-storage warehouses and derived from the original zoning ordinance.

## Sec. 13.4 - Home Based Business.

A premises principally used as a residence but in which one (1) or more people operate a business or commercial enterprise, provided, however:

- A. No customers may come to this address;
- B. No person other than residents may work with this business at this address;
- C. No outside storage of products or equipment other than a personal vehicle used for business purposes;
- D. No commercial signs of any kind may be placed on the premises;
- E. This address cannot be used to advertise the business; and
- F. No activity shall be conducted at this address that creates visible evidence that the resident is engaging in a business.

## Sec. 13.5 - Home Occupation.

A premises principally used as a residence but in which one (1) or more people operate a business or commercial enterprise, provided, however:

- A. The business or commercial enterprise is conducted entirely within a dwelling;
- B. The business or commercial enterprise is carried on solely by the inhabitants of the dwelling;
- C. The business or commercial enterprise requires and actually uses less than twenty-five percent (25%) of total floor area;
- D. The business or commercial enterprise is clearly incidental and secondary to the residential use of the dwelling;
- E. The business or commercial enterprise does not change the residential character of the dwelling, meaning that there shall be no major change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation;
- F. The business or commercial enterprise must be such that it can be conducted without any significant adverse impact on the surrounding neighborhood and shall not cause or encourage an amount of vehicular or pedestrian traffic not normally associated with the residential area in which it is conducted;
- G. Any need for parking associated with the business or commercial enterprise shall be met off the street;



- H. No equipment or process shall be used which creates noise, vibration, glare, fumes or odors detectable to the normal senses off the lot;
- I. No equipment or process shall be used which creates electrical interference affecting radio or television receivers off the premises, or creates fluctuations in the voltage off the premises;
- J. No public display of goods is allowed.

Home Occupations are allowed one (1) advertising or location sign located on premise which shall not exceed four (4) square feet in area. Examples of home occupation are: dressmaking, the taking of boarders and the leasing or renting of rooms, tutoring, and teaching. It may include an office for any professional or business use where traffic generated would not be detrimental to the neighborhood. The conducting of a health clinic, hospital, barbershop, beauty parlor, tearoom, or animal hospital shall not be deemed to be a home occupation.

ARTICLE XIV. - SINGLE FAMILY RESIDENTIAL AND DUPLEX DISTRICTS

Sec. 14.1 - Residential Districts.

14.1.1 *R-1R Restricted Residential Single Family.*

- A. *Uses/Structures Permitted:* Single family dwelling units and home based businesses. Excluding townhouses, garden-patio homes, recreational vehicles and mobile/manufactured dwellings.
- B. *Uses/Structures Permitted on Appeal:* Modular Dwellings and home occupations.
- C. *Uses/Structures Prohibited:* Agriculture, poultry and livestock. Any use or structure not specifically permitted or permitted on appeal by this section or by Sections 13.1.1 or 13.1.2 of Article XIII.
- D. *Requirements:*

Minimum Lot Area	30,000 square feet
Minimum Lot Width at Building Line	100 feet
Minimum Depth of Front Yard	35 feet
Minimum Depth of Rear Yard	30 feet
Minimum Depth of Rear Yard with Pool/Screen Enclosure	10 feet
Minimum Waterfront Setback Line	75 feet
Minimum Width of each Side Yard	10 feet
Minimum Depth of Side Yard Abutting Street	30 feet
Maximum Building Area (% Gross Lot Area):	25%
Maximum Building Height (feet):	50 feet
Maximum Building Height (stories):	2 stories
Minimum Off-Street Parking Spaces:	2
Maximum Density Per Acre:	<u>1.4</u>
* or meet Health Department requirements.	

14.1.2 *R-1A Residential Single Family.*

- A. *Uses/Structures Permitted:* Single family dwelling units, Modular dwellings, and home based businesses. Excluding townhouses garden-patio homes, mobile/manufactured dwellings, and Recreational Vehicles.
- B. *Uses/Structures Permitted on Appeal:* Home occupations.
- C. *Uses/Structures Prohibited:* Agriculture, poultry and livestock. Any use or structure not specifically permitted or permitted on appeal in this

section or in Sections 13.1.1 or 13.1.2 of Article XIII.

D. *Requirements:*

Minimum Lot Area:	12,000 square feet *
Minimum Lot Width at Building Line	100 feet
Minimum Depth of Front Yard	35 feet
Minimum Depth of Rear Yard	30 feet
Minimum Depth of Rear Yard with Pool/Screen Enclosure	10 feet
Minimum Width of Each Side Yard	12 feet
Minimum Depth of Side Yard Abutting Street	35 feet
Maximum Building Area (% of Gross Lot Area)	25 %
Maximum Building Height (feet):	50 feet
Maximum Building Height (stories):	2
Off-Street Parking Spaces	2
Maximum Density Per Acre	3.0
* or meet Health Department requirements.	

14.1.3 *R-1B Residential Single Family.*

- A. *Uses/Structures Permitted:* Single family dwelling units, Modular dwellings and home based businesses. Excluding townhouses garden-patio homes, mobile/manufactured dwellings, and Recreational Vehicles.
- B. *Uses/Structures Permitted on Appeal:* Home occupations.
- C. *Uses/Structures Prohibited:* Agriculture, poultry and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII.
- D. *Requirements:*

Minimum Lot Area	11,000 square feet *
Minimum Lot Width at Building Line	85 feet
Minimum Depth of Front Yard	35 feet
Minimum Depth of Rear Yard	30 feet
Minimum Depth of Rear Yard with Pool/Screen Enclosure	10 feet
Minimum Width of Each Side Yard	10 feet (5 feet on side with carport)
Minimum Depth of Side Yard Abutting Street	35 feet
Maximum Building Area (% of Gross Lot Area)	25 %
Maximum Building Height (feet)	50 feet

Maximum Building Height (stories):	2
Off-Street Parking Spaces	2
Maximum Density Per Acre	<u>3.3</u>
* or meet Health Department requirements.	

14.1.4 *R-1C Residential Single Family.*

- A. *Uses/Structures Permitted:* Single family dwelling units, Modular dwellings and home based businesses. Excluding townhouses, mobile/manufactured dwellings, Recreational Vehicles, and garden-patio homes.
- B. *Uses/Structures Permitted on Appeal:* Home occupations.
- C. *Uses/Structures Prohibited:* Agriculture, poultry and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII.
- D. *Requirements:*

Minimum Lot Area	9,500 square feet *
Minimum Lot Width at Building Line	75 feet
Minimum Depth of Front Yard	30 feet
Minimum Depth of Rear Yard	30 feet
Minimum Depth of Rear Yard with Pool/Screen Enclosure	10 feet
Minimum Width of Each Side Yard	10 feet (5 feet on side with carport)
Minimum Depth of Side Yard Abutting Street	30 feet
Maximum Building Area (% of Gross Lot Area)	40 %
Maximum Building Height (feet):	50 feet
Maximum Building Height (stories):	2
Off-Street Parking Spaces	2
Maximum Density Per Acre	3.8
* or meet Health Department requirements.	

14.1.5 *R-1D Residential Single Family.*

- A. *Uses Permitted:* Single family dwelling units, modular dwellings and home based businesses. Excluding townhouses, garden patio homes, mobile/manufactured dwellings, and recreational vehicles.
- B. *Uses Permitted on Appeal:* Home occupations.
- C. *Uses Prohibited:* Agriculture, poultry and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII.
- D. *Requirements:*

Minimum Lot Area	6,000 square feet *
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Minimum Lot Width at Building Line	60 feet
Minimum Depth of Front Yard	20 feet
Minimum Depth of Rear Yard	15 feet
Minimum Depth of Rear Yard with Pool/Screen Enclosure	10 feet
Minimum Width of Each Side Yard	10 feet
Minimum Depth of Side Yard Abutting Street	20 feet
Maximum Building Area as % of Gross Lot Area	50%
Maximum Building Height (feet):	50 feet
Maximum Building Height (stories):	2
Off-Street Parking Spaces Required Per Family Unit	2
Maximum Density per Acre	5.0
* or meet Health Department requirements	

14.1.6 R-2 Residential Single Family and Duplex.

- A. *Uses/Structures Permitted:* Single family dwelling units, residential structures containing two (2) family units (duplex), modular dwellings and home based businesses. Excluding townhouses, mobile/manufactured dwellings, recreational vehicles and garden-patio homes.
- B. *Uses/Structures Permitted on Appeal:* Home occupations.
- C. *Uses/Structures Prohibited:* Agriculture, poultry and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII.
- D. *Requirements:*

Minimum Lot Area (single family)	9,000 square feet *
Additional Minimum Lot Area (duplex)	2,500 square feet *
Minimum Lot Width at Building Line	75 feet
Minimum Depth of Front Yard	30 feet
Minimum Depth of Rear Yard	30 feet
Minimum Depth of Rear Yard with Pool/Screen Enclosure	10 feet
Minimum Width of Each Side Yard	10 feet (5 feet on side w/carport)
Minimum Depth of Side Yard Abutting Street	30 feet
Maximum Building Area (% of Gross Lot Area)	40%
Maximum Building Height (feet):	50 feet
Maximum Building Height (stories):	2
Off-Street Parking Spaces (Per Family Unit)	2

Maximum Density Per Acre	4.0
* or meet Health Department requirements.	

14.1.7 *R-4 Residential Single Family and Duplex.*

- A. *Uses/Structures Permitted:* Residential structures containing one- or two-family units; mobile/manufactured dwelling units, RV's and modular dwellings on individual lots; and home based businesses.
- B. *Uses/Structures permitted on Appeal:* Home occupations, lodges and clubs not operated for profit; professional and business offices.
- C. *Uses/Structures Prohibited:* Agriculture, poultry, and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII
- D. *Requirements:*

Minimum Lot Area (single family)	9,500 square feet *
Additional Minimum Lot area (each additional family)	2,000 square feet *
Minimum Lot Width at Building Line	75 feet
Minimum Depth of Front Yard	30 feet
Minimum Depth of Rear Yard	30 feet
Minimum Depth of Rear Yard with Pool/Screen Enclosure	10 feet
Minimum Width of Each Side Yard	10 feet
Minimum Depth of Side Yard Abutting Street	30 feet
Maximum Building Area (% of Gross Lot Area)	40%
Maximum Building Height (feet):	50 feet
Maximum Building Height (stories):	2
Off-Street Parking Spaces (per family unit)	2
Maximum Density	4.0
* or meet Health Department requirements.	

14.1.8 *GPH-1 Residential Garden Patio Homes.*

- A. *Uses/Structures Permitted:* Garden-patio homes, Modular Dwellings; home based businesses.
- B. *Uses/Structures Permitted on Appeal:* Residential uses including structures specifically permitted or permitted on appeal in R-1C districts; home occupations.
- C. *Uses/Structures Prohibited:* Agriculture, poultry and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII.
- D. *Requirements:*

Minimum Lot Area (per family)	4,000 square feet *
Minimum Lot Width at Building Line	40 feet

Minimum Depth of Front Yard	20 feet
Minimum Depth of Rear Yard	15 feet
Minimum Width of Side Yard	10 feet (Total of both)
Minimum Depth of Side Yard Abutting Street	10 feet
Maximum Building Height (feet):	50 feet
Maximum Building Height (stories):	2 ½
Off-Street Parking Spaces	2
Maximum Density Per Acre	8.0
* or meet Health Department requirements.	

14.1.9 *Garden Patio Homes.*

- A. No area will be zoned for garden-patio homes until the City Council shall determine that the proposed patio homes are designed in such a manner as to be in harmony with the character of the surrounding neighborhood.
- B. It is the intent of this Ordinance that patio homes, in areas where they are or may be permitted may be appropriately intermingled with other types of housing; shall constitute groupings making efficient, economical, comfortable, and convenient use of land and open space; and serving the public purposes of zoning by means alternative to conventional arrangements of yards and buildings areas.

In line with general considerations above, the following site plan and design Criteria are established:

- A. No more than two (2) garden-patio homes shall be connected.
- B. Each patio home shall be constructed on its own lot, and shall be a minimum width of forty (40) feet at the building line with minimum lot area of four thousand (4,000) square feet.
- C. Each patio home lot shall have side yards totaling a minimum of ten (10) feet or meet Building/Fire Codes. Minimum depth of rear yard shall be fifteen (15) feet. Fireplace and chimney may be placed in the side or rear yard setback provided they do not project beyond the thirty (30) inch permitted roof overhang and provided they do not restrict or obstruct any drainage or drainage easement, either existing or proposed.
- D. The required ten (10) foot side yard must be kept perpetually free of permanent obstructions, accessory structures, walls and fences without gates.
- E. Privacy fences or walls may be placed on or along any lot line provided that such fences or walls are not constructed in such a manner as to block any local lot drainage and provided gates or other openings are provided that will not restrict access for fire protection. An eight (8) foot maximum height limit will be permitted for privacy fences or walls located on or along any required side or rear yard.
- F. Each patio home shall have on its own lot one yard containing not less than six hundred (600) square feet, reasonably secluded from view.
- G. Off-street parking shall be provided at the rate of two (2) spaces per dwelling unit and shall be located within the interior of the lot. Garages shall not be credited toward the parking requirements if said garage is a part of the main dwelling or attached to the main dwelling.
- H. The exterior walls of the patio home, or any accessory structures located on the zero (0) foot side yard setback shall not project over the property line. Roof overhang may penetrate maintenance and drainage easements of the adjacent lot a maximum of thirty (30) inches, provided the roof shall be so designated that water run-off shall be restricted to the drainage easement area.
- I. No windows, doors, or other openings shall be permitted on the zero (0) foot side line of any patio home unit. Where adjacent zero (0) lot line dwellings are not constructed against or along a common lot line, a perpetual wall maintenance easement of three (3) feet in width along and parallel to the adjacent lot shall be provided.
- J. Where adjacent zero (0) lot line dwellings are not constructed against or along a common lot line, a perpetual drainage easement shall be provided which shall be approved by the City. Fences and walls may be located on or along this easement provided gates or other openings that will not block local lot drainage are maintained.
- K. The lot adjacent to the zero (0) setback side yard must be under the same ownership at the time of initial construction (ensuring that a developer does not infringe on the property rights of owners of adjacent tracts).
- L. A ten (10) foot side setback shall be required, provided the adjacent property is not zoned for patio homes or is not a permitted use in the adjacent zoning district.
- M. No accessory structures shall be erected in a required front, side, street side yard, or open space. Accessory structures shall be permitted in the

rear yard and shall not exceed one (1) story in height; and shall not cover more than twenty-five (25) percent of the required rear yard.

( Ord. No. 19-2006, 3-4-19 )

ARTICLE XV. - MULTI-FAMILY AND TOWNHOUSE DISTRICTS

Sec. 15.1 - R-3 Residential Multi-Family.

- A. *Uses/Structures Permitted:* Residential structures containing one (1) or two (2) family dwelling units; apartments containing a maximum of twelve (12) units per acre; recreational uses including club houses, swimming pools, tennis courts, open space and other recreational facilities as are deemed appropriate by the Planning Commission; garages and carports; maintenance buildings to serve only one complex; and home based businesses.
- B. *Uses/Structures Permitted on Appeal:* Home occupations, modular dwellings; lodges and clubs not operated for a profit; professional and business offices; and hotels.
- C. *Uses/Structures Prohibited:* Agriculture, poultry and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII, including mobile/manufactured dwellings and Recreational Vehicles.
- D. *Requirements:*

Minimum Lot Area (Single family)	8,500 square feet *
Minimum Lot Width at Building Line	75 feet
Minimum Depth of Front Yard	30 feet
Minimum Depth of Rear Yard	30 feet
Minimum Width of Each Side Yard	10 feet
Minimum Depth of Side Yard Abutting Street	30 feet
Maximum Building Area (% of Gross Lot Area)	40 %
Minimum Open Space	N/A
Maximum Building Height (feet):	50 feet
Maximum Building Height (stories):	2
Off-Street Parking Spaces (per family unit)	2
Maximum Density Per Acre * or meet Health Department requirements.	5
Minimum Lot Area (Two family/Duplex)	10,500 square feet *
Minimum Lot Width at Building Line	100 feet
Minimum Depth of Front Yard	30 feet
Minimum Depth of Rear Yard	30 feet
Minimum Width of Each Side Yard	10 feet
Minimum Depth of Side Yard Abutting Street	30 feet
Maximum Building Area (% of Gross Lot Area)	40 %
Minimum Open Space	N/A

Maximum Building Height (feet):	50 feet
Maximum Building Height (stories):	3
Off-Street Parking Spaces (per family unit)	2
Maximum Density Per Acre * or meet Health Department requirements.	8
Minimum Lot Area (Multi-Family)	1 Acre
Minimum Lot Width at Building Line	200 feet
Minimum Depth of Front Yard	40 feet
Minimum Depth of Rear Yard	30 feet **
Minimum Width of Each Side Yard	25 feet **
Minimum Depth of Side Yard Abutting Street	40 feet
Maximum Building Area (% of Gross Lot Area)	40 %
Minimum Open Space	25%
Maximum Building Height (feet):	50 feet
Maximum Building Height (stories):	4
Off-Street Parking Spaces (per family unit)	2
Maximum Density Per Acre * or meet Health Department requirements.	12
** Where multi-family is located adjacent to single family residential, the minimum rear yard and side yard shall be fifty (50') feet. In addition, structures that exceed two (2) stories shall be set back an additional one (1') foot of height over thirty-five (35') feet, up to a maximum of fifty (50') feet.	

15.1.1 R-3 Residential Multi-Family.

*Special Provisions:* Multiple family housing, because of increased densities, often generates large, bulky buildings and large parking areas. This type of development can be incompatible with surrounding uses. If these developments are not properly designed the large buildings and parking areas can dominate the site and leave only small remnants of open space that does not adequately provide for the recreational needs of the residents.

1. *Location:*

Multiple family residential sites shall be located on a Major or Collector Roads as designated on the Major Road Plan. These sites shall be consistent with the Comprehensive Plan and shall only be permitted where multiple family residential land use is indicated on the adopted plan.

2. *Application Requirements:*

All applications for R3 shall furnish the following information to the Planning Commission:

- a. A preliminary traffic analysis indicating the probable effect of the proposed development on traffic patterns and capacities of adjacent streets in the immediate area.
- b. Official letters of commitment of utility services to the proposed Multiple Family Residential from the appropriate water, sewer, electric, gas and other utilities.

3. *Site Plan Review:* Site Plan review shall be required for all R-3 Multiple Family Residential Developments as provided in Article 11.1 of this



Ordinance.

4. *Site Design Guidelines: Building Orientation*
  - a. Each multiple family development shall reflect a site orientation suited to the surrounding topography, neighborhood setting and community. When adjacent to single family residential, the site orientation shall take into account the height, bulk, and character of the surrounding development to avoid conflicts. The developments shall be designed in a manner to integrate them into the neighborhood rather than an abrupt intrusion into the neighborhood.
  - b. Arrange buildings to provide functional public and private outdoor spaces. Avoid developments that are "facing inward" and offer no relationship to the adjoining neighborhoods and greater community.
  - c. Orient multiple family buildings to the adjacent public streets by providing large windows, porches, balconies and entryways or other entry features on the street side of the buildings. Avoid the creation of blank street-facing walls that create unattractive streetscapes.
  - d. Building ends shall contain windows and active spaces to provide additional security and visual interest.
  - e. Site Plans shall be designed with a variation in both the street patterns and the sighting of structures so the appearance of the streetscape does not become overly repetitive. Avoid continuous lines of buildings with the same setback.
5. *Off Street Parking:*
  - a. Off street parking shall be designed in a way to minimize the visual prominence of vehicles and to minimize the potential pedestrian conflicts.
  - b. Parking shall not be located in the front yard of the development. The parking shall be located behind the street setback to the side and rear of the buildings, wherever possible.
  - c. Parking areas visible from the public street rights-of-way and adjacent properties shall be screened from view with landscape elements, low profile walls or berms, or other types of visual barriers and screens.
  - d. Landscaping and walkways shall be located between buildings and paved parking areas. Avoid parking vehicles directly against a building or structure.
  - e. Shade trees shall be designed into all parking areas to provide for natural shading and provide for proper aesthetics.
  - f. Enclosed garages and carports may be permitted. All carport roofs visible from public streets or adjacent properties shall reflect the overall design and character of the residential structures in the development.
  - g. All garages, carports, exterior storage of boats, recreational vehicles and trailers shall be fully enclosed or sufficiently screened when visible from public street or adjacent properties.
6. *Open Space:*
  - a. The open space provided in multiple family residential developments shall address both active and passive outdoor open space uses. Open space shall be designed to enhance the overall appearance and compatibility of the development.
  - b. Include sufficient open spaces in the form of squares, greens and parks. A minimum of twenty-five percent (25%) of open space shall be provided in all multiple family developments. Stormwater retention areas are not included in this twenty-five percent (25%) open space requirement, unless it is properly designed and determined to be acceptable open space by the Planning Commission.
  - c. Retain existing mature trees within the new project design and landscaped areas where possible. Extra effort should be made to retain existing trees and vegetation adjacent to single family residential areas.
  - d. Open space shall be distributed throughout the development and easily accessible to all residents. Open space should not be concentrated in large areas that are inconvenient to residents of the development.
7. *Landscaping:*
  - a. Adequate landscape screens shall be provided along the perimeter of all multiple family developments. Where multiple family developments are located adjacent to single family residential, a dense landscape screen shall be provided.
  - b. On perimeter streets, sidewalks, streetscape plantings shall be provided. These screens shall include street trees and landscaping where necessary to screen parking and other areas.
  - c. Dense landscaping and/or architectural elements shall be provided to screen unattractive views and features, such as outdoor storage areas, trash enclosures, mechanical equipment and other similar equipment.
  - d. Landscape plans shall include placement of deciduous shade trees around the east, west and south sides of residential buildings to help reduce cooling loads during the summer and permit solar gain during the winter months.
  - e. Wall-mounted or ground-mounted utility equipment such as transformers, electric and gas meters, electrical panels, junction boxes and transformers shall be screened by walls, berms, fences and/or landscaping.
  - f. All utility lines including electric, telephone, gas and cable television lines shall be placed underground in each development.
8. *Accessory Structures and Elements:*
  - a. Accessory structures and amenities, such as community rooms, recreation facilities, swimming pools, mail rooms/kiosks, laundry rooms, garages and carports shall be centrally located and easily accessible by residents.
  - b. Multiple family developments with one hundred fifty (150) or more dwelling units shall provide a recreation facility and swimming pool. The design of accessory structures and elements shall be consistent with the predominate architectural theme of the residential buildings

with regard to roof pitch, exterior materials and colors.

- c. Trash and garbage storage areas shall be enclosed by solid, durable and attractive walls with solid screen doors. The materials shall be similar in color to the residential buildings. These enclosures shall be screened with appropriate landscaping. They shall be situated to minimize views from public streets and to avoid impacting adjoining properties.
- d. Trash and garbage storage areas shall be located convenient to all residents. These enclosures shall be sufficient to accommodate both waste disposal and recycling containers.

9. *Lighting:*

- a. All exterior lighting shall be architecturally integrated with the building style, materials, and colors.
- b. Parking areas, entry drives, and pedestrian walks shall be illuminated to allow for proper vehicular movements and promote pedestrian safety and security. All lights shall be pedestrian in scale and spaced for proper energy efficiency. This lighting shall be inward directed and not impact adjacent properties. Light standards shall be no taller than sixteen (16) feet in height. The use of building lights to illuminate parking areas is prohibited.
- c. Landscape plantings and lighting shall be coordinated. Appropriate light pole locations shall not conflict with mature landscaping.

10. *Additional Requirements:*

The Special Requirements provided above are specific requirements to multiple family developments. Other requirements may be provided in the Zoning Ordinance and other City Ordinances and Regulations that further impact the design and development of multiple family properties. Additional requirements include but are not limited to: signage; parking and loading; landscaping and screening requirements and engineering and stormwater retention requirements.

15.1.2 *TH-1 Residential Townhouse.*

- A. *Uses/Structures Permitted:* Townhouses and home based businesses
- B. *Uses/Structures Permitted on Appeal:* Residential structures including modular dwellings/uses specifically permitted in R-1C zones; garden-patio homes; home occupations.
- C. *Uses/Structures Prohibited:* Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII.
- D. *Requirements:*

Minimum Lot Area	2,400 square feet *
Minimum Lot Width at Building Line	24 feet
Minimum Depth of Front Yard	20 feet
Minimum Depth of Rear Yard	15 feet
Minimum Width of Side Yard (on end unit)	16 feet
Minimum Depth of Side Yard Abutting Street	16 feet
Maximum Building Height (feet):	50 feet
Maximum Building Height (stories):	3
Off-Street Parking Spaces (per family unit)	2
Maximum Density Per Acre	15
* or meet Health Department requirements.	

- A. Townhouses shall be designed in such a manner as to be in harmony with the character of the surrounding neighborhood and area. Where conditions are attached by the City Council in zoning an area for townhouses, these conditions shall be included as part of the building permit.
- B. It is the intent of this Zoning Ordinance that townhouses:
  - 1. May be appropriately intermingled with other types of housing;
  - 2. Shall not form long, unbroken lines of row housing;

- C. Shall constitute groupings making efficient, economical, comfortable, and convenient use of land and open space and serving the public purposes of zoning means alternative to conventional arrangements of yards and building areas.

In line with the general considerations above, the following site plan and design criteria are established:

- A. Not more than six (6) contiguous townhouses shall be built in a row with the same front line, and not more than twelve (12) townhouses shall be contiguous. In groups of townhouses consisting of more than six (6) units, the required difference in front line shall be a minimum of three (3) feet.
- B. Minimum width for the portion of the lot on which a townhouse is to be constructed shall be twenty-four (24) feet.
- C. Minimum lot area shall be two thousand four hundred (2,400) square feet.
- D. No portion of a townhouse or accessory structure in or related to one (1) townhouse complex shall be closer than twenty (20) feet to any portion of the townhouse or accessory structure related to another townhouse complex, or to any building outside the townhouse area.
- E. Each townhouse shall be constructed on its own lot.
- F. No side yards shall be required except at the unattached ends of a townhouse complex, in which case the minimum width shall be sixteen (16) feet. Minimum depth of front yards shall be twenty (20) feet.
- G. Each townhouse shall have on its own lot, one (1) yard containing not less than four hundred (400) square feet, reasonably secluded from view from streets or from neighboring property.
- H. Off-street parking shall be provided at the rate of two (2) spaces per townhouse. Insofar as practicable, off-street parking facilities shall be grouped in bays, whether adjacent to streets or in the interior of blocks. No off-street parking space shall be more than one hundred (100) feet by the most direct pedestrian route from a door of the dwelling unit it is intended to serve.
- I. In townhouse developments with a total area greater than five (5) acres at least twenty (20) percent of the total area shall be devoted to common open space, exclusive of parking areas, accessory buildings, or required drainage. Such common open areas may include recreational facilities. In addition, the developer of a townhouse development or homeowners association created by the developer by recorded covenants and restrictions, shall preserve for the owners and occupants of the development such lands set aside for open areas, parks, or recreational use, and the common off-street parking spaces established for the development.

ARTICLE XVI. - MANUFACTURED HOMES

Sec. 16.1 - MH-1 Mobile/Manufactured Dwelling Park.

- A. *Uses/Structures Permitted:* Mobile/manufactured dwellings; R.V.'s; modular dwellings; and home based businesses.
- B. *Uses/Structures Permitted on Appeal:* Home occupations; residential structures and uses specifically permitted in R-1C districts.
- C. *Uses/Structures Prohibited:* Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII; poultry and livestock.
- D. *Requirements:*

Minimum Lot Area	3,000 square feet or three times larger than the footprint of the dwelling, whichever is greater *
Minimum Lot Width at Building Line	N/A
Minimum Depth of Yards	20 feet on each long side of structure and 15 feet on each end of structure (short side)
Off-Street Parking Spaces per family unit	2
Maximum Density Per Acre	8.0 units
* or meet Health Department requirements.	

16.1.1 *Mobile/Manufactured Dwellings.*

16.1.2 *General Requirements.*

- A. No mobile/manufactured dwelling shall be occupied for dwelling purposes unless the same is located in an appropriate zoning district.
- B. No mobile/manufactured dwellings shall be admitted to any park or mobile home subdivision unless it meets all code requirements of the City

of Foley.

- C. No area will be zoned for mobile/manufactured dwellings parks until the following information is submitted to the Planning Commission and City Council:
1. Area and dimensions of the proposed park.
  2. Location of all drives and mobile/manufactured dwellings layout.
  3. Location of water and sewer lines, water supply, and sewage disposal areas.
  4. A preliminary drainage plan for the park reviewed by the City Engineering Department.
  5. Location and dimension of all buffers, office structures, recreational areas, open spaces and other required accessory structures.
  6. A traffic analysis, if required by City of Foley Ordinances.

16.1.3 *Development Standards.*

Except as otherwise provided, the development standards which follow apply to mobile/manufactured dwellings parks and mobile/manufactured dwellings subdivisions.

- A. *Buffers:* Each boundary of a mobile/manufactured dwellings park or sub-division must be at least one hundred (100) feet from any residential property or industrial property line located outside the park or subdivision, unless separated there from by a natural or artificial barrier that is sufficient in size, and composition so as to completely prohibit the unobstructed view or access between the mobile home park or subdivision and the neighboring property.
- B. *Utilities:* Each mobile/manufactured dwellings lot shall have attachments for waste disposal and water supply facilities, properly connected to an approved method of sewage disposal and water supply.
- C. *Required Open Space:*
1. Each mobile/manufactured dwellings park shall provide land for open space which may be used for recreational purposes, but which may not be used for parking or for accessory structures. Such open space shall total at least fifteen percent (15%) of the gross land area of the park. This requirement does not apply to mobile/manufactured dwellings subdivisions.
  2. Mobile/manufactured dwellings subdivisions greater than five (5) acres in total area shall include, at a minimum, open space equal to ten percent (10%) of the total area. Such open space may be used for recreational purposes, but may not be used for parking or accessory structures.
- D. *Additional Requirements:*
1. No mobile/manufactured dwellings park office or service building shall be closer to a public street right-of-way than the minimum of thirty (30) feet.
  2. All mobile/manufactured dwellings parks must be divided into lots.
- E. *Traffic and Circulation:*
1. All right of ways for access driveways and interior streets of mobile/manufactured dwellings parks must be at least thirty (30) feet in width with at least twenty (20) feet paved or topped with a hard, durable surface.
  2. Requirements contained in the Subdivision Regulations of the City of Foley shall govern streets and right-of-ways for mobile/manufactured dwellings subdivisions.
- F. *Single Mobile/manufactured dwellings:*
- Where single mobile/manufactured dwellings are permitted, they shall be subject to the following regulations:
1. Such mobile/manufactured dwellings shall be in compliance with all codes of the City of Foley.
  2. The minimum lot size shall be ten thousand (10,000) square feet with one-hundred (100) feet minimum width.
  3. The lot must have access to a public road.

( Ord. No. 19-2006, 3-4-19 )

ARTICLE XVII. - COMMERCIAL/OFFICE DISTRICTS

Sec. 17.1 - Commercial Districts.

17.1.1 *B-1 Central Business District.*

- A. *Uses/Structures Permitted:* Stores selling food, restaurants/drive-in eating places, general merchandise, apparel, furniture, housewares and household wares, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and laundry pick-up stations; barber and beauty shops; shoe repair shops; offices; banks; post offices and similar services; joint residential and commercial use; any residential use not prohibited; any retail business not specifically restricted herein, places of amusement and assembly, hotels.
- B. *Uses/Structures Permitted on Appeal:* Automobile filling stations, motels, automobile repair (minor and major), large dry cleaners and laundries, veterinary clinics/hospitals, manufacturing incidental to a retail business where articles are sold at retail on the premises, other uses not

specifically restricted herein; self-storage warehouses; home based businesses; and home occupations.

- C. *Uses/Structures Prohibited:* Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII, including kennels; poultry and livestock; towing company storage yard; industrial uses not specifically permitted herein; mobile/manufactured dwellings; modular dwellings; R.V.'s; and wholesale businesses.

17.1.2 *B-1A Extended Business District.*

- A. *Uses/Structures Permitted:* Stores selling food, restaurants/drive-in eating places, general merchandise, automobile filling stations, automobile repair (minor), apparel, furniture, housewares and household wares, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and laundry pick-up stations; barber and beauty shops; shoe repair; offices; banks; post offices; office/warehouses; and similar services; any retail business not specifically restricted herein; places of amusement and assembly; motels and hotels; joint residential and commercial use, any residential use not prohibited.
- B. *Uses/Structures Permitted on Appeal:* Automobile repair (major); large dry cleaners and laundries, veterinary clinics/hospitals, manufacturing incidental to a retail business where articles are sold at retail on the premises, other uses not specifically restricted herein; self-storage warehouses.
- C. *Uses/Structures Prohibited:* Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII, including kennels; poultry and livestock; industrial uses not specifically permitted herein; travel trailers; mobile/manufactured dwellings; modular dwellings; and wholesale businesses.

D. *Requirements:*

Minimum Depth of Front Yard	30 feet
Minimum Depth of Rear Yard	20 feet
Minimum Depth of Side Yard Abutting Street	30 feet
Maximum Height (feet)	85 feet
Maximum Height (stories)	6 stories
Maximum Building Area (% of Gross Lot Area)	50 %
Maximum Residential Density per Acre	20 units
Off-Street Parking (commercial):	See Article X, <a href="#">Section 10.1</a>
	1 space for each 400 sq. ft. of habitable floor space
Off- Street Parking (residential):	2 spaces per family unit
Off-Street Loading	See Article X, Section 10.1.4

17.1.3 *B-2 Neighborhood Business District.*

- A. *Uses/Structures Permitted:* Stores selling food, restaurants, general merchandise, apparel, furniture, housewares and household goods, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and pick-up stations; barber and beauty shops; shoe repair; offices; banks; post offices; and similar services; automobile filling stations, office/warehouses; drive-in eating places, motels, automobile repair (minor); any retail business not specifically restricted herein; any residential use not prohibited; places of amusement and assembly, and hotels.
- B. *Uses/Structures Permitted on Appeal:* Large dry cleaners and laundries; veterinary clinics and hospitals; automobile repair (major), manufacturing incidental to a retail business where articles are sold at retail on the premises, wholesale businesses; joint residential and commercial use, self-storage warehouses.
- C. *Uses Prohibited:* Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII, including kennels; poultry and livestock; industrial uses not specifically permitted herein, travel trailers; mobile/manufactured dwellings; and modular dwellings.
- D. *Requirements:*

Minimum Depth of Front Yard	30 feet
Minimum Depth of Rear Yard	20 feet
Minimum Depth of Side Yard Abutting Street	30 feet
Maximum Height	50 feet
Maximum Building Area (% of Gross Lot Area)	30 %
Maximum Residential Density per Acre	11 units
Off-Street Parking (commercial):	See Article X, <u>Section 10.1</u>
	1 space for each 400 sq. ft. of habitable floor space
Off-Street Parking (residential):	2 spaces per family unit
Off-Street Loading	See Article X, Section 10.1.4

17.1.4 B-3 Local Business District.

- A. *Uses/Structures Permitted:* Drug stores, restaurants, drive-in eating places, jewelry and gift shops, flower shops, small beauty and barber shops, small dry cleaning and pick-up stations, automobile repair (minor), local laundry and washateria parlors, shoe repair shops, small business and professional offices, residential uses not prohibited herein, and other similar small retail businesses units not specifically prohibited herein.
- B. *Uses/Structures Permitted on Appeal:* Veterinary clinics/hospitals; kennels; wholesale.
- C. *Uses/Structures Prohibited:* Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII, including industrial uses not specifically permitted herein; poultry and livestock; residential use including RV/travel trailer parks, mobile/manufactured dwelling parks, modular dwelling subdivisions; and automobile filling stations.
- D. *Requirements:*

Minimum Depth of Front Yard	60 feet
Minimum Depth of Rear Yard	30 feet
Minimum Depth of Side Yard Abutting Street	30 feet
Maximum Height	50 feet
Maximum Building Area (% of Gross Lot Area)	25%
Maximum Residential Density per Acre	11 units
Off-Street Parking (commercial):	See Article X, <u>Section 10.1</u>
	1 space for each 400 sq. ft. of habitable floor space
Off-Street Parking (residential):	2 spaces per family unit
Off-Street Loading	See Article X, Section 10.1.4

Sec. 17.2 - PO—Preferred Office District.

- A. *Uses/Structures Permitted:* Any governmental use or structure having characteristics compatible with this district; professional and business offices which shall include, but not be limited to, offices for lawyers, architects, engineers, insurance and real estate companies; research or testing laboratories compatible with other permitted uses; medical and dental offices (including clinics).
- B. *Uses/Structures Permitted on Appeal:* Schools, clinics, mortuaries, banks, small retail establishments related to the office use such as snack bars and pharmacies provided the sole entrance to such establishment is inside the office structure; and other uses not prohibited.
- C. *Uses/Structures Prohibited:* Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII; any retail business or establishment that is not related or incidental to the office use or any retail business or establishment that has an entrance other than from inside the office structure; veterinary clinics/hospitals and kennels; poultry and livestock.
- D. *Requirements:*

Minimum Lot Area	7,200 square feet *
Minimum Lot Width at Building Line	60 feet
Minimum Depth of Front Yard	20 feet
Minimum Depth of Rear Yard	20 feet
Minimum Depth of Side Yard	10 feet
Maximum Building Area	50 %
Maximum Building Height (feet):	50 feet
Maximum Building Height (stories):	3
Off-Street Loading Requirements	See Article X, Section 10.1.4
Off-Street Parking (commercial):	
	1 space for each 400 sq. ft. of habitable floor space
* or meet Health Department requirements.	

( Ord. No. 19-2006, 3-4-19 )

ARTICLE XVIII. - INDUSTRIAL DISTRICTS

Sec. 18.1 - M1—Light Industrial District.

- A. *Uses/Structures Permitted:* Buildings used for the operation of light industrial, fabricating, processing, assembling and manufacturing, bottling and distribution plants, woodworking shops, cabinet shops, contractor or building material yards, highway maintenance yards and buildings, laundry and dry cleaning plants and printing establishments; wholesale sales.
- B. *Uses/Structures Permitted on Appeal:* Any use permitted in districts B-1, B-2, or B-3, and other industrial or commercial uses not specifically prohibited; self-storage warehouses and towing company storage yards.
- C. *Uses/Structures Prohibited:* Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII, including any residential use or structure, except that of a watch-man or caretaker; poultry and livestock; storage of junk or wrecked automobiles other than for re-pair or service, explosive products manufacture, garbage disposal plants or sanitary landfills.
- D. *Requirements:*

Minimum Depth of Front Yard	75 feet
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Minimum Depth of Rear Yard	35 feet
Minimum Depth of Side Yard	35 feet
Maximum Building Area	50 %
Maximum Building Height (feet):	50 feet
Maximum Building Height (stories):	3
Off-Street Loading Requirements	See Article X, Section 10.1.4
Off-Street Parking Spaces:	See Article X, <u>Section 10.1</u>

( Ord. No. 19-2006, 3-4-19 )

Sec. 18.2 - PID—Planned Industrial District.

A. *Uses Permitted/Prohibited:*

Within a Planned Industrial District as shown on the official Zoning Maps of the City of Foley, Alabama, the following regulations shall apply:

1. *Uses Permitted:* Examples of uses permitted include but are not limited to:

Commercial heliports and/or helipads; Aviation manufacturers & associated uses: Computer and data processing services; Educational, scientific, and research organizations; Engineering, architectural, and design services; Federal, state, county, city or public utilities owned or operated buildings and uses; Manufacturing, processing, fabrication or assembly of the following: Apparel; automotive and implements; electrical and electronic machinery, equipment and supplies; food and similar products intended for human consumption; lumber and wood products; machinery other than electrical; metal and metal products; plastics, glass and rubber products; printing and publishing; professional, scientific, and controlling instruments; research and development operations; textile mill products; and transportation equipment; Medical and dental laboratories; Office buildings for general office purposes; Retail uses compatible to other allowed uses in a PID; Office Warehouses; Wholesale/Distributing; Warehousing, interior storage, and distribution in conjunction with manufacturing, assembly and office use; Exterior storage in conjunction with the above mentioned uses, completely screened from adjacent property lines and streets; and Accessory structures and uses to those permitted herein.

2. *Uses Prohibited:* Junkyards, including wrecker yards; explosive products manufacturing; garbage disposal plants; sanitary landfills; asphalt and concrete plants, and other uses that are detrimental to the health, safety, morals and general welfare of the community and the area.

B. *Required Yards:*

Yards facing an existing or proposed street other than a controlled access highway shall be considered front yards. Such yards shall have a minimum depth of twenty (20) feet.

All other yards shall have a minimum depth of ten (10) feet.

All required yards shall be kept clear of parking except for the following:

1. Off-street parking for visitors, executives and handicapped persons may be permitted in the required front yard but shall not encroach within twenty (20) feet of an existing or proposed street.
2. Off-street parking areas and access ways in required rear and side yards are not permitted within twenty (20) feet of any side or rear property line.

C. *Density Controls:*

Buildings shall not cover an area greater than sixty (60) percent of the total area of the tract.

Maximum number of stories is three (3) and maximum height is fifty (50) feet.

D. *Off-Street Parking Requirements:*

The minimum number of off-street parking spaces for the following types of uses shall be provided as follows:

1. One (1) space for each four hundred (400) square feet of floor area for non-manufacturing uses to include offices, laboratories and technical support.



2. One (1) space for each five hundred (500) square feet of manufacturing and assembly area.
3. One space for each one thousand (1,000) square feet of warehouse and storage area.

All parking areas shall be durable and properly drained. No parking shall be permitted any place other than in approved parking areas.

Loading areas shall not be placed within any front yard and shall be located and properly screened, as well as practicable, so as to not be visible from any existing or proposed street.

E. *Landscaping Requirements:*

Every building site on which a building shall be placed shall be landscaped in compliance with City of Foley ordinances.

F. *Signs:*

Signs shall be permitted in accordance with the City of Foley Zoning Ordinance.

18.2.1 *PID—Planned Industrial District.*

- A. *Purpose:* The purpose and intent of the Planned Industrial District (PID) is to provide for a comprehensively planned district for the orderly growth and development of certain industrial uses which are, by virtue of controls, mutually harmonious with other industries permitted in the District and also harmonious with residential, commercial, and other uses permitted in nearby districts.
- B. *Approval:* Subject to the approval of the City Council after a review and report by the Planning Commission.
- C. *Submission:* A rezoning application for a development plan of a PID shall be filed with the Community Development Department. The purpose of the development plan is to provide the City with information in respect to the type, character, scale and intensity of development. The following information shall be submitted with the application:
  1. The location and size of the site including its legal description.
  2. The recorded ownership interests including liens and encumbrances.
  3. The relationship of the site to existing development in the area, and physical features of the land.
  4. The density or intensity of land use to be allocated to all parts of the site to be developed together with tabulations by acreage and percentages thereof.
  5. The engineering feasibility and proposed method of providing required improvements such as streets, water supply, storm drainage and sewage collection in preparation for submitting the requirements for preliminary plat approval as set forth in the City of Foley Subdivision Regulations.
  6. The provisions for parking vehicles and the function and location of vehicular and pedestrian system facilities.
  7. Any additional data, plans or specifications as the applicant or City may believe are pertinent to the proposed PID.
  8. A Master Signage Plan meeting criteria of Article XXI, Section 21.7.

D. *Performance Standards:*

The following performance standards shall be required for all uses located in the Planned Industrial District:

1. Air Pollution - Every use shall be so operated as to comply with the emission limitations specified by Federal, State, City and other applicable ordinances.
2. Odor - No odors shall be emitted that are detectable without instruments at or beyond any property line.
3. Vibration - Maximum permitted vibration from any cause shall not exceed the following, when measured at the lot line:

Frequency (Cycles per Second)	Displacement (Inches)
10 & below	.0008
10—20	.0005
20—30	.0003
30—40	.0002
40—50	.0001
50 & above	.0001

4. Noise - Every use shall be so operated as to comply with Federal, State, City and other applicable ordinances.

5. Fire and Explosion Hazard - All activities and all storage of flammable and explosive materials shall be in accordance with the National Board publications and other local ordinances.
6. Glare - No direct or reflected glare shall be produced so as to be visible at or beyond any lot line.
7. Radiation - Research operations shall cause no dangerous radiation at any property line as specified by the regulations of the Alabama Department of Public Health, Bureau of Radiological Health and other applicable ordinances.
8. Radioactive Materials - The handling of radioactive materials, the discharge of such materials into air or water, and the disposal of radioactive wastes, shall be in conformance with the regulations of the Alabama Department of Public Health, Bureau of Radiological Health and other applicable ordinances.
9. Electromagnetic Interference - Industries shall emit only that amount of unshielded spurious electromagnetic radiations as is necessary for the conduct of their operations. Federal Communications Commission requirements shall govern maximum radiation which tends to interfere with meaningful signals.
10. Water Pollution - No effluent shall be discharged in any stream.
11. Waste - All industrial wastes shall be treated and disposed of in such a manner as to comply with all federal, state, city and other applicable standards.

ARTICLE XIX. - AGRICULTURE/OPEN SPACE DISTRICTS

Sec. 19.1 - AO—Agricultural Open Space.

- A. *Uses/Structures Permitted:* Farms, residential uses and structures not prohibited modular dwellings, parks, playgrounds, clubs, lodges, public and private forests, wildlife refuges, stables, kennels, home occupations, home based businesses, churches, schools, public buildings, and other accessory uses to the above.
- B. *Uses/Structures Permitted on Appeal:* Temporary and unenclosed roadside stands for the sale of agricultural products, public and private utilities, airports, radio or television broadcasting towers, hospitals, institutions, mausoleums and cemeteries, and single mobile/manufactured dwellings (in accordance with provisions of Article XVI, Section 16.1.3).
- C. *Uses/Structures Prohibited:* Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII, including any business or industry not contained in Sections 14.9A and 14.9B, billboards, and the excavation of minerals, or the removal of surface material.
- D. *Requirements:*

Minimum Lot Area	1 acre per family unit
Minimum Lot Width at Building Line	150 feet
Minimum Depth of Front Yard	50 feet
Minimum Depth of Rear Yard	50 feet
Minimum Width of Each Side Yard	25 feet
Maximum Building Area (% Gross Area)	25 %
Maximum Building Height (feet):	50 feet
Maximum Building Height (stories)	2
Off-Street Parking:	1

Sec. 19.2 - OSP—Open Space/Preservation District.

- A. *Uses/Structures Permitted:* Athletic facilities, public parks, playgrounds, country club with associated recreational facilities, hiking and nature trails, wildlife sanctuary, nature preserve, canoe, kayak and boat launches, incidental accessory uses, incidental accessory retail and service uses, offices accessory to a permitted use, essential services facility, and other similar uses.
- B. *Uses/Structures Permitted on Appeal:* Uses and structures not specifically permitted.
- C. *Uses/Structure Prohibited:* Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of

Article XIII.

D. *Requirements:*

Minimum Lot Area	N/A
Minimum Depth of Front Yard	50 feet
Minimum Depth of Rear Yard	50 feet
Minimum Width of Each Side Yard	25 feet
Maximum Building Area (% Gross Area)	25 %
Maximum Building Height (feet):	50 feet
Maximum Building Height (stories)	2

ARTICLE XX. - MIXED USE DEVELOPMENTS

Sec. 20.1 - PUD—Planned Unit Development.

20.1.1 *Requirements.*

- A. A PUD must have a minimum of one (1) or more contiguous acres that are not separated by any right-of-way.
- B. PUDs will not increase density but should attempt to create larger and more significant open spaces through the use of reduced lot sizes, setbacks, clustering of dwellings, etc.
- C. *Principal Uses:* PUDs may have a mixture of principal uses selected from any of the following categories:
  - 1. *Residential Uses:* Single family dwellings, attached dwellings, Townhomes and multi-family dwellings.
  - 2. *Neighborhood Commercial Uses:* Commercial retail and services to include health clubs, child day care and adult day care, cafes, drinking establishments and restaurants including those with outdoor seating, professional services such as real estate, insurance, doctors, dentists, attorneys, architects, engineers, and lawyers, convenience goods such as groceries, drug stores, boat store, ice cream shops, snack shops, card shops, gift shops, framing studios, beer and liquor sales, laundry and dry cleaners, hardware stores, apparel stores, art studios, artist supplies, florists, bookstores, newsstands, and video/electronic rentals, and other similar uses that are related to needs of residents and employees in the area.
  - 3. *Civic and Institutional Uses:* Places of assembly, places of worship, schools, public facilities, non-profit service agencies, assisted living facilities, hospitals and medical facilities with related offices, health centers, nursing homes, and related offices, parks, open space, outdoor and indoor recreation.
  - 4. *Accessory Uses:* Garages, parking garages, carports, residential storage buildings, bikeways, trails, golf courses, swimming pools, tennis courts, and other forms of outdoor recreation community room, exercise or health club, video/game arcade and other forms of indoor recreation, clubhouses and incidental parking.
  - 5. *Prohibited Uses:* Outdoor storage, heavy commercial, industry, adult entertainment, building materials, pawn shops, tattoo parlors, auto body shops, auto sales, parts and services, towing company storage yards and junkyards.
  - 6. *Residential Lot Size:* No minimum lot size is required so that housing can be clustered or otherwise concentrated or arranged in planned locations on the site to take advantage of its natural features. However if public water and sewer is not available, Department of Public Health regulations must be met.
  - 7. *Open Space Reservation:* Not less than twenty-five percent (25%) of the PUD site shall be reserved collectively in contiguous units accessible to all the building sites in the PUD and maintained by the property owners for open space for the purpose of providing parks, recreational facilities, ways for pedestrian movement and circulation, and for conserving visually pleasing elements of the environment. This open space does not include areas reserved for drainage purposes. If the PUD is developed in stages, the amount of open space reserved and developed for use in each stage will constitute no less than an equivalent proportional amount to the area being developed.
  - 8. *Municipal Responsibility:* Nothing in this section shall be construed as a responsibility or liability of the City of Foley to construct, operate, or maintain any private street, drainage, open area, park, recreational facility, or any other facility in the PUD, and a hold harmless clause to this effect shall be incorporated into the covenants and deeds running with the land. The developer/owner(s) may dedicate and petition the City Council for City maintenance of streets if they are built to City specifications; however, the City is under no obligation to accept these.

9. *Appearance of Public Facilities:* All utility structures and other public facilities in the PUD shall be architecturally compatible and landscaped in overall design and appearance of the PUD as approved by the Planning Commission.

D. *PUD Development Requirements:*

Minimum Lot Width at Building Line	40 feet
Minimum Depth of Front Yard	15 feet
Minimum Depth of Rear Yard	20 feet
Minimum Width of Side Yard	10 feet (Combination of both sides)
Maximum Building Area (% of Gross Lot Area)	50%
Maximum Building Height	85 feet
Maximum Number of Stories	6
Off-Street Parking Spaces (per family unit)	2
Maximum Density Per Acre	11

Sec. 20.2 - PUD—Planned Unit Development Requirements.

20.2.1 *Purpose.*

The purpose of planned unit development regulations is to encourage flexibility in the design and development of land in order to promote its most appropriate use; to facilitate the adequate and economical provision of streets, utilities and public spaces; and to preserve the natural and scenic qualities of open areas.

The procedure is intended to permit diversification in the location of structures and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety, comfort, order, appearance, convenience, morals and general welfare both in the use and occupancy of buildings and facilities in planned groups.

20.2.2 *Approval.*

Subject to the approval of the City Council after a review and report by the Planning Commission and after a public hearing is held, as required for all rezoning applications, planned unit developments may be permitted use in any zone district.

20.2.3 *Pre-Application Conference.*

To expedite the review of a planned unit development, coordinate its local review in respect to the provisions of this Ordinance with necessary county, state and federal agency reviews, and to inform the City of a planned unit development in the preparation, a Pre-Application Plan Review shall be processed as required by this ordinance and in accordance with the procedures established by the Community Development Department. The pre-application review will serve several purposes and focus on the following items:

To inform the City of any planned unit development plans in progress together with the scale and character of the plan so that the City may recognize the proposed development in any of its physical or facility planning for the entire City.

To inform the applicant of the City's informal response as to the scale and character of the proposed development and to alert the applicant of any specific areas of concern that the City may have for that specific site or proposed plan.

To clarify and inform both the applicant and the City in respect to the development plan approval procedure including an anticipated application time and review period. To enable the applicant to inform the City of the requirements, procedures and status of the various county, state and federal agency reviews.

20.2.4 *Submission Requirements.*

In order to provide an expeditious method for processing a plan for a planned unit development under the terms of this Ordinance, it is hereby declared to be in the public interest that all procedures with respect to the approval or disapproval of a plan for a planned unit development, and the continuing administration thereof, shall be consistent with the following provisions:

- A. A rezoning application for a development plan for a planned unit development shall be filed by or on behalf of the landowner with the

Community Development Director. The purpose of the development plan is to provide the City with information in respect to the type, character, scale and intensity of development as well as the time phasing of the proposed planned unit development in order for the City to evaluate the impact of the development upon the City. Once the PUD master plan has been approved, each phase must be approved by staff and the Planning Commission prior to any permits being issued.

- [B.] The applicant for any type of PUD shall provide a drawing and a written narrative specifically calling out all zoning relaxations that are being requested through the PUD. These may include reduced right-of-way width, clustering of units, reduced lot size and setbacks, use considerations, building height variances, design considerations, etc., and shall also identify the benefits of the PUD, including but not limited to:
1. *Public Benefits* - Traffic and utility improvements, regional and local bicycle/pedestrian improvements, buffering from adjacent sites, aesthetic improvements, dedication of school or park sites, enhancement of property values, sign enhancements, preservation of natural areas and views, creating public access to water or other popular sites.
  2. *Private Benefits* - Amenities for site users, open space and recreation, clustering of uses, creation of neighborhoods, landscaping, traffic circulation, multi-modal circulation, private space for units, parking, tree preservation, preserving unique views and natural areas in common areas for the use and enjoyment of all residents/guests, enhanced architecture and site layout.
- C. The following information shall be submitted with the applications:
1. The location and size of the site including its legal description.
  2. The recorded ownership interests including liens and encumbrances and the nature of the developer's interest if the developer is not the owner.
  3. 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 pertinent ecological features.
  4. The density or intensity of land use to be allocated to all parts of the site to be developed together with tabulations by acreage and percentages thereof.
  5. The location, size and character of any common open space, common owned facilities and the form of organization proposed to own and maintain any common open space and common owned facilities.
  6. The use and type of buildings, i.e., single-family detached, townhouses, or garden apartments, proposed for each portion of the area included within the outline development plan.
  7. The engineering feasibility and proposed method of providing required improvements such as streets, water supply, and storm drainage and sewage collection
  8. The substance of covenants, grants or easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements for public utilities.
  9. The provisions for parking vehicles and the function and location of vehicular and pedestrian system facilities.
  10. The provisions for the disposition of open space including its development or non-development character and function.
  11. In the case of plans which call for development over a period of years, a schedule showing the proposed times within which application for final approval of all sections of the planned unit development are intended to be filed.
  12. Any additional data, plans or specifications as the applicant or the City may believe are pertinent to the proposed planned unit development.
  13. An Application and fee as required for processing.
  14. A Master Signage Plan meeting the criteria of Article XXI, Section 21.7.
- D. The application for development approval of a planned unit development shall include a written statement by the landowner or any other entity having a cognizable interest in the land, describing fully the character and intended use of the planned unit development and setting forth the reasons why, in his opinion, a planned unit development would be consistent with the City's statement of purposes on planned unit development.

#### 20.2.5 *Review Procedure.*

An application for a development plan of a planned unit development shall be filed with the Community Development Director. Upon receipt of said application, the Community Development Director shall review said application to determine its appropriateness and completeness and accept or reject the application. Upon acceptance of the application, the City's administrative staff shall review said application and submit the application, together with all supporting documentation and their recommendations thereof to the Planning Commission. The Planning Commission shall report on recommendations to the City Council. Once the property has been zoned PUD, and the final plan has been completed, a site plan review must be submitted to the Community Development Director. The final plan must include at a minimum the site plan contents listed in the City of Foley Zoning Ordinance, Section 11.1.1. All permit applications required by the City of Foley and all criteria required by the Community Development Department must be submitted and approved prior to site plan submittal. Once a final plan has been reviewed and approved by staff, it will be placed on the next Planning Commission meeting for their review.

#### Sec. 20.3 - PDD—Planned Development District.

- A. *Uses/Structures Permitted:* Hotel, motel, conference center, theater, indoor or outdoor entertainment center, recreation facility, museum, community center, restaurant, night club, bar, shopping center, retail store, retail service, personal service, craft studio, bank, professional office,

business office, and other similar tourist related entertainment, recreation, service or commercial uses, and high density residential.

- B. *Uses/Structures Permitted on Appeal:* Automobile filling stations; and amusement parks.
- C. *Uses/Structures Prohibited:* Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII, including any residential, commercial, industrial, or agricultural use or structure not specifically permitted by the City Council when zoning an area as a PDD; major automobile repairs; manufacturing; outdoor storage, heavy commercial, industry, adult entertainment, building materials, pawn shops, tattoo parlors, auto body shops, auto sales, parts and services, towing company storage yards and junkyards.
- D. *Requirements:*

Minimum District Area	5 Acres
Minimum Buffer on all Project Area Boundaries	30 feet
Minimum Buffer Between Different Uses	30 feet
Maximum Building Area (% of Gross Project Area)	20%
Maximum Building Height (feet):	85 feet
Maximum Building Height (stories):	6 Stories
Off - Street Parking (commercial):	See Article X, <u>Section 10.1</u>
Off-Street Parking (Residential)	1 space for each 400 sq. ft. of habitable floor space
Off - Street Loading	See Article X, Section 10.1.4

- E. *Landscape Regulations:* Native vegetation shall be preserved and incorporated into the development, ensuring the preservation of environmentally sensitive areas. A landscaped buffer is required between different uses. It shall be at least thirty (30) feet wide and planted with native materials or trees in groups, to create a visual barrier. This is to be maintained by the developer and/or owner.

20.3.1 *PDD—Planned Development District.*

- A. *Purpose:* The purpose of the Planned Development District is to achieve more flexibility and orderly commercial development in a unified grouping than would be possible through the strict application of the existing business and commercial zoning districts. This district is intended to encourage innovative development that is integrated with adjacent land uses through the zoning approval process.
- B. The PDD should be located to assure maximum compatibility with neighboring developments. It is the intent of the regulations to encourage a cluster of commercial activities and the economical provision of utilities with open space preservation objectives, through the utilization of an overall planned design. Planned Development Districts should be located to minimize traffic impacts; therefore its use is intended for large lot developments and locations along thoroughfares that are capable of handling the proposed traffic.
- C. *Requirements:* Prior to the rezoning or initial zoning of an area to a PDD district, a conceptual master plan for the entire proposed development, including all phases, must be submitted to the Planning Commission and then to the City Council. PDDs should conform to the City of Foley Comprehensive Zoning Plan and should be located in primarily non-residential zones.
- D. A Site Plan shall also be submitted to the Planning Commission for each development phase. The proposed development may provide, through an agreeable design, deviations from development standards otherwise applicable under regular zoning district requirements. Minimum setbacks, lot sizes, and height restrictions may be waived, provided that the intent of this article is complied with in the plan. The Planning Commission/ City Council may establish certain restrictions and prohibitions for a particular development when it determines that such is required to preserve the purpose and intent of the Zoning Ordinance.
- E. A Master Signage Plan meeting the criteria of Article XXI, Section 21.7.
- F. There shall be a minimum of at least fifteen percent (15%) open space in a PDD exclusive of all drives, walkways, parking areas and required drainage. Access roads and drainage infrastructure, water, sewer, electricity, telephone and other utilities shall be provided to serve the development at the completion of construction of each development phase. Performance bonds may not be posted for drainage and sewer work.

The purpose of these sign regulations are: to encourage the effective use of signs as a means of communication; to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign restrictions. This sign ordinance is adopted under the zoning authority of the city in furtherance of the more general purposes set forth in the Zoning Ordinance.

Sec. 21.1 - Permits and Inspections.

*Permits Required.* Except as otherwise provided in this Ordinance, it shall be unlawful for any person to erect, construct, enlarge, move, alter or convert any sign in the City or cause the same to be done, without first obtaining a Building Permit for each sign from the Building Official.

*Application for Permit.* Application for a permit shall be made to the City upon a form provided by the Building Official and shall be accompanied by all information required to assure compliance with all appropriate laws and regulations of the City, including:

- A. Name and address of owner of the sign.
- B. Name and address of owner or the person in possession of the premises where the sign is located or to be located.
- C. Clear and legible drawings with description definitely showing the location of the sign which is subject of the permit and all other existing signs for that particular business at that location.
- D. Drawings showing the dimensions, construction supports size, electrical wiring, components, and illumination method, materials of the sign and method of support.

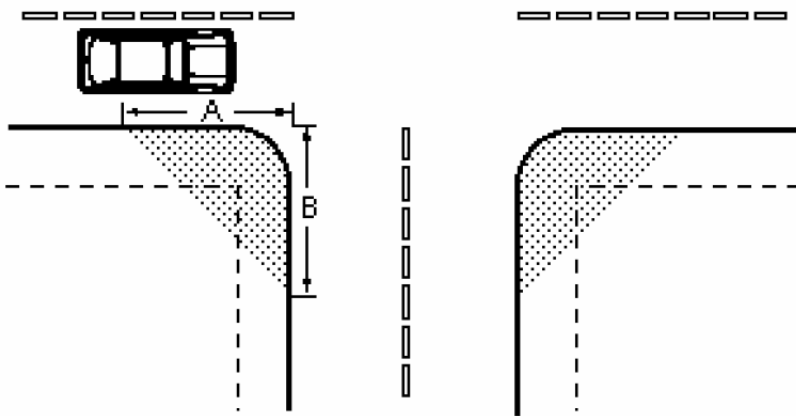
*Denial of Permit.* When a permit is denied by the Community Development Director, notice shall be given to the proper applicant with a written statement of the reason or reasons for the denial. Said statement shall be made as an attachment to the permit application.

*Appeal of Permit Denial.* If the denial is based on the interpretation or enforcement of the Zoning Ordinance, any aggrieved party may appeal the decision or interpretation of the Community Development Director to the Zoning Board of Adjustment and Appeals.

*Unsafe Signs.* Every sign in the City shall be maintained in good structural condition. The Community Development Director may inspect and shall have the authority to order the painting, repair, alteration or removal of signs which become dilapidated or abandoned or which constitute a physical hazard to public safety. Any repair, painting, alteration, or removal will be at the sign owner's expense.

*Location of Signs and Visibility.* All signs shall be on premise, except as permitted specifically within this Ordinance or other City ordinances. No signs shall be erected in public right-of-way or on public sidewalks. No roof top signs shall be permitted. Signs may not be located within the vision clearance areas, the triangular shaped areas located at the intersection of any combination of streets, alleys or driveways. Nothing may be erected, placed planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. The sides of the triangle extend from the intersection of the pavement or other vehicle travel areas. Signs must be located to provide unobstructed visibility and shall not be located between the heights of two and one-half (2 ½) feet and ten (10) feet from grade within this area. Structures and supports must have a combined total width of twelve (12) inches or less and the combined total depth of twelve (12) inches or less.

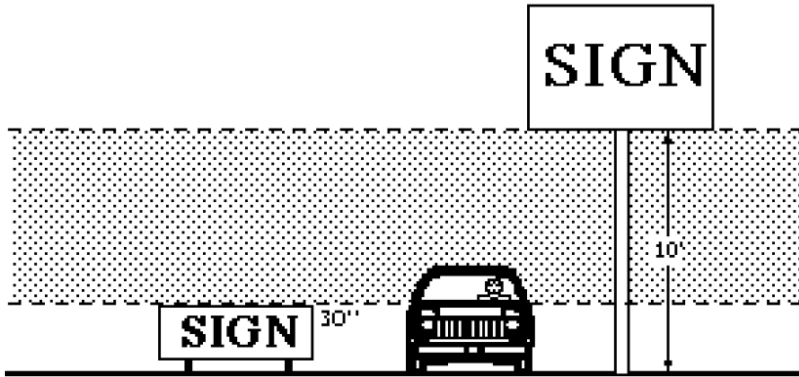
**Vision Clearance Areas**



REQUIREMENTS BY STREET CLASSIFICATION	
A Distance in Feet	B Distance in Feet

	Street Type	Drive way	Local Street	Collector/Arterial
25	Driveway	25	30	100
30	Local Street	25	30	100
100	Collector/Arterial	25	30	100

**Vision Clearance Area Height**



Uses Permitted and Uses Permitted on Appeal. Signs allowed for Article XIII Section 13.1.1 Uses 1-Uses Permitted and Section 13.1.2 - Uses Permitted on Appeal shall meet the requirements of the zoning district in which they are permitted.

Sec. 21.2 - Signs Permitted Within Residential Districts.

(R-1R, R-IA, R-IB, R-IC, R-1D, R-2, R-3, , R-4, GPH-1, TH-1, MH-1) and within Residential Areas of a PUD, PDD or A-O

Within residential districts, or within residential areas of mixed districts, the following signs are permitted:

A. Neighborhood/Subdivision identification signs and Uses Permitted in A-O are allowed provided they meet the following requirements:

Permitted Sign Type	Neighborhood/Subdivision Identification
Maximum Sign Face Area (sq. ft.)	32 Square Feet
Number of Faces	Two (2)
Maximum Height	Five (5) Feet
Illumination	Direct and Indirect
Setback from Property Line	Front- 25 Feet, Side- 25 Feet
Number	One Per Entrance

- B. Illuminated signs are expressly prohibited in the residential zones of the City, except for Neighborhood/Subdivision Identification signs and Bed and Breakfast signs.
- C. Signs shall be located so as not to cause a safety hazard or visual obstruction to traffic, or to cause any other type of hazard to safety.
- D. Signs advertising home occupations are limited to one (1) sign not to exceed four (4) square feet in area.
- E. An allowed Bed and Breakfast establishment within a residential district shall be permitted no more than one (1) identification sign. Such sign shall state the name of the establishment and its street address only, and occupancy information. It shall not exceed four (4) square feet in sign face area.



Sec. 21.3 - Signs Permitted Within PO District and Office Areas of a PUD or PDD.

A. Office Buildings Containing Less Than a Total Ten Thousand (10,000) Square Feet of Floor Area:

Type of Sign Permitted	Wall or Projecting	Ground
Maximum Sign Face Area (Measured in Square Feet)	32	32 Maximum
Maximum height (Measured From Grade)	Twelve (12) feet	Five (5) feet
Maximum Projection from Wall	Eighteen (18) Inches	N/A
Illumination	Direct, Indirect or Internal	Direct, Indirect or Internal
Number of Faces Allowed	Wall: One(1) Projecting: Two (2)	Two (2)
Number of Signs Per Establishment	One (1) per Facing Street/Driveway	One (1) per Facing Street

B. Office Buildings Containing a Total Floor Area of Ten Thousand and One (10,001) Square Feet or More:

Type of Sign Permitted	Wall or Projecting	(Ground Sign)
Maximum Sign Face Area (Measured in Square Feet)	32	50
Maximum height	Twenty (20) Feet, or at Roofline - whichever is lowest	Nine (9) Feet
Illumination	Direct, Indirect or Internal	Direct, Indirect or Internal
Number of Faces	Wall: One (1) Projecting: Two (2)	Two (2)
Number of Signs Per Establishment	One (1) per Facing Street/Driveway	One (1) per Facing Street

C. Parking Lots may have a sign for identification of the use provided it complies with the following requirements:

1. Such signs shall not exceed thirty-two (32) square feet in area, or five (5) feet in height.
2. Such signs may be illuminated by a non-oscillating, concealed light source, but illumination by any spotlight or floodlight shall be prohibited.

Sec. 21.4 - Signs Permitted Within Commercial and Industrial Districts.

(B-1, B-1A, B-2, B-3, M-1, Commercial and Industrial Areas of a PUD or PDD)

- A. If a business does not have a ground sign, the wall sign may be increased by the square footage permitted of the ground sign.
- B. Signs shall not be permitted in public easements and public rights-of-way unless otherwise allowed by ordinance.
- C. Based on the street frontage, the total sign face area (wall & ground) may be increased as follows two hundred feet to four hundred feet (200'—400') increase ten percent (10%); four hundred one feet to six hundred feet (401—600') increase twenty percent (20%); six hundred one feet to eight hundred feet (601—800') increase thirty percent (30%); eight hundred one feet to one thousand feet (801—1000') increase forty percent (40%); over one thousand feet (1000') increase fifty percent (50%).
- D. Painted murals on the sides of buildings are permitted and are not considered to be a sign unless copy is included which advertises a business or service. If copy is included, this is a sign and must comply with this Ordinance. The signs must be properly maintained by the owner.
- E. Parking Lots may have a sign for identification of the use provided it complies with the following requirements:
  1. Such signs shall not exceed thirty-two (32) square feet in area, or five (5) feet in height.
  2. Such signs may be illuminated by a non-oscillating, concealed light source.

Sec. 21.5 - Signs Permitted Within B1 District.

Type of Sign Permitted	Wall or Projecting	Maximum Ground
Maximum Sign Face Area *** (Measured in Square Feet)	40	32
Number of Signs Per Establishment	** One (1) per Facing Street/Driveway	One per Facing Street
Height	<i>Wall</i> - Twenty (20) feet or roofline, whichever is lowest. <i>Projecting</i> - Minimum Nine (9) Feet Above Sidewalk (Per Building Code)	Five (5) Feet
Illumination	Direct, Indirect or Internal	Direct, Indirect or Internal

\*\* Multiple tenant establishments may locate one (1) identifier sign per tenant at the entrance to the tenant's space. Sign shall not exceed two (2) square feet in area.

\*\*\* Signage on the wall and building shall not exceed thirty percent (30%) of the area of the building's frontage.

Sec. 21.6 - Signs Permitted Within Open Space/Recreation District.

Permitted Sign Type	Open Space//Recreation District
Maximum Sign Face Area (sq. ft.)	200 Square Feet
Number of Faces	Two (2)
Maximum Height	Twenty-Five (25) Feet
Illumination	Indirect/Internal
Setback from Property Line	Front- 25 Feet, Side- 25 Feet
Number	One Per Entrance

\* Promotional/Sponsorship materials within Park boundaries are exempt from the Sign Regulations.

Sec. 21.7 - Signs Permitted Within B1a, B2, B3, M1 and PID Districts; PUD and PDD Commercial and Industrial Areas.

A. Signs Permitted for Single Tenant Free Standing Structures:

	** Less than 2,900 Sq. Ft. of Floor Area		** 2,901 to 15,000 Sq. Ft. of Floor Area		** 15,001 to 30,000 Sq. Ft. of Floor Area		** 30,001 to 50,000 Sq. Ft. of Floor Area		** 50,001 to 10 of Floor Area
Type Sign Permitted	Wall	Ground	Wall	Ground	Wall	Ground	Wall	Ground	Wall
Sign Face Area * (Sq. Ft.)	80	120	80	160	200	200	200	210	220

Maximum Height (Measured From Grade)	Not to Exceed Highest Roofline	20'	Not to Exceed Highest Roofline	25'	Not to Exceed Highest Roofline	25'	Not to Exceed Highest Roofline	25'	Not to Exceed Highest Roofline
Number	One (1) per Facing Street/Driveway	One per 500 Feet of Frontage	One (1) per Facing Street/Driveway	One per 500 Feet of Frontage	One (1) per Facing Street/Driveway	One per 500 Feet of Frontage	One (1) per Facing Street/Driveway	One per 500 Feet of Frontage	One (1) per Facing Street/Driveway
Illuminate	Internal	Internal	Internal	Internal	Internal	Internal	Internal	Internal	Internal

\* Based on the street frontage length, the total sign face area (wall & ground) may be increased as follows: two hundred feet to four hundred feet (200'—400') increase ten percent (10%); four hundred one feet to six hundred feet (401'—600') increase twenty percent (20%); six hundred one feet to eight hundred feet (601—800') increase thirty percent (30%); eight hundred one feet to one thousand feet (801—1000') increase forty percent (40%); and over one thousand feet (1000') increase fifty percent (50%). Signage on the wall and building shall not exceed thirty percent (30%) of the area of the building's frontage.

\*\* Indicates Footprint of Ground Foundation

\*\*\* Signs for retail establishments in excess of one hundred thousand one (100,001) sq. ft. of floor area may increase ten percent (10%) for each additional one hundred thousand (100,000) square foot of floor area.

B. *Permitted Signs for Establishments Located in a Multi-Tenant Development:*

Stores and establishments in multi-tenant developments will be allowed building front signs provided they meet the following criteria and only if such store or establishment has frontage.

Type Sign Permitted	Wall or Projecting
Maximum Height	Not to Exceed Roofline
Number	One per Facing Street/Driveway
Illumination	Internal
Maximum Sign Face Area (Sq. Ft.)	Sign Area Conforming to Height Restrictions and Not Covering More than 30% of the Store Frontage.

C. *Permitted Multi-Tenant Locator Signs:*

	Less than 10,000 Sq. Ft. Of Floor Area	10,001 to 30,000 Sq. Ft. of Floor Area	More than 30,001 Sq. Ft. of Floor Area
Sign Face Area * = (Sq. Ft.)	100	150	300
Maximum Height	25 Feet	30 Feet	35 Feet
Number	One	One per Facing Street, Total Sign Face Area of All Locator Signs Not to Exceed 200 Square Feet.	One per Facing Street, Total Sign Face Area of All Locator Signs Not to Exceed 400 Square Feet.

Illumination	Internal	Internal	Internal * Indicates maximum size for one sign face.
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D. A Master Signage Plan (MSP) is designed to benefit the community in administering its sign regulations. A Master Signage Plan is required for the following zoning designations: Planned Unit Development (PUD), Planned Development District (PDD), and Planned Industrial District (PID). The Planning Commission will review the location, size, and other information to approve ground signs in common areas advertising specific businesses within a development. The information required includes:

1. An accurate plot plan of the Development at a legible scale;
2. Location of signage common areas, buildings, parking lots, driveways, amenities, landscaped areas and others;
3. An accurate indication of the proposed location of each present and future sign.
4. Size of the total Sign Face Area, the area of each individual sign, the height of the signs, an outline of the Sign Structure.
5. Documentation of who will be responsible for the maintenance and upkeep of the ground signs.

Sec. 21.8 - Electronic Changeable Copy Signs.

Electronic changeable copy signs may be permitted as a detached freestanding or attached flat sign in the following zones: B1A, Extended Business District; B2, Neighborhood Business District; B3, Local Business District; M1, Light Industrial District; PID, Planned Industrial District; Commercial and Industrial areas of a PUD, Planned Unit Development or PDD, Planned Development District and Open Space/Recreation District. The signs must meet all requirements for the zoning district. Electronic changeable copy signs are not allowed in the City of Foley Historical District. May not display messages that do not pertain to business conducted on the premises on which the sign is located, unless otherwise exempted or a public service announcement.

21.8.1 *Detached Freestanding.*

- A. *Location:* The sign must be located on the site of the use identified or advertised by the sign.
- B. *Number of Signs:* No more than one (1) changeable copy sign or electronic changeable copy sign with a maximum of two (2) sides is permitted per lot of record. Lots with multiple businesses shall be allowed one (1) electronic sign to service all businesses located on that lot. The sides of two-sided signs shall be parallel to each other.
- C. *Static Display:* Display of message must be static.
- D. *Duration:* Electronic changeable copy signs shall change no more than one (1) time per ten (10) seconds.
- E. *Integrated Sign:* Detached electronic changeable copy signs must form a portion of an on-premises detached sign. The electronic changeable copy portion of the detached sign may be separated from the remainder of the sign. If the electronic message center portion of the sign is being utilized after sunset, the existing static portion of the sign must be functioning, illuminated, and readable.
- F. *Area:* The area of the electronic changeable copy sign may comprise no more than fifty percent (50%) of the surface area of the allowable detached sign of which it is a part. Neither shall any portion of the electronic changeable copy sign project above the height of the permanent detached signage. Electronic changeable copy signs are secondary to the permanent non-changeable portions of the sign and should be designated in this regard.
- G. *Calculation of Area:* An electronic changeable copy sign shall be included in the calculation of the total permitted sign area of the detached sign of which it is a part.
- H. *Brightness:* The sign must have a light sensing/dimming device to control the maximum light intensity. The sign should be dimmed down ninety percent (90%) to a minimum ten percent (10%) brightness at night.
- I. *Dimmer Control:* Electronic changeable copy signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one-half (½) hour before sunset and one-half (½) hour after sunrise. In addition, it must also be able to respond to lighting level changes occurring due to atmospheric conditions.
- J. *District Limitations:* Electronic changeable copy signs located within any residential district are allowed only for neighborhood identification signs and bed and breakfasts, as permitted by special exception.
- K. *Setback from Residential:* The leading edge of an electronic changeable copy sign located in any district must be a minimum distance of one hundred (100) feet from an abutting occupied single-family residential district boundary.
- L. *Visibility:* Electronic changeable copy signs may not face an abutting residential district.
- M. *Setback from Other Electronic Changeable Copy Signs:* Electronic changeable copy signs must be separated from other electronic changeable copy signs by at least fifty (50) feet.
- O. *Maintenance:* All electronic changeable copy signs will be maintained in proper working order. Any dead zones or non-illuminated portions of the signs shall be replaced or repaired within fourteen (14) working days, or as soon as possible conditions allowing, or the use of the sign shall be discontinued.
- P. *Safety:* If at any time subsequent to the adoption of this Section of the Zoning Ordinance any portion of these regulations is deemed to be a safety hazard by the City of Foley, the City reserves the right to modify said regulations and all existing signs shall be modified to conform to the

safety-related modifications.

#### 21.8.2 Attached Flat Signs.

Electronic changeable copy signs attached to buildings are only allowed as follows:

- A. A maximum of one (1) sign per tenant is permitted for a site that does not contain any other electronic changeable copy sign, detached or wall mounted.
- B. Such signs may not exceed thirty-two (32) square feet in area and will be counted toward the calculation for maximum signage for the building.
- C. Wall mounted signs shall not be oriented toward adjacent residential uses.
- D. Display of message must be static.
- E. Such signs must comply with all other applicable provisions of this ordinance.

#### Sec. 21.9 - Location of Free Standing Signs.

- A. No sign may extend beyond the property lines of the property on which the sign is located nor interfere with any public right-of-way or public easement.
- B. No sign shall be located so as to cause a public hazard, obstruct or impair motorists' vision, diminish safe ingress and egress to any property or impede flow of pedestrian or vehicular circulation in parking areas, sidewalks, or public roads.

#### Sec. 21.10 - Signs Prohibited in the City.

The following signs are prohibited in the City of Foley, and no permits for the construction of these signs will be issued, and all existing signs of this nature that are now in the corporate limits of the City of Foley or may hereafter come into the corporate limits of the City of Foley will either be classified as legal nonconforming or unlawful.

- A. Billboards, provided, however, the Planning Commission may, as part of its approval of a PUD, PDD, or PID, grant one (1) or more lots in the development the option to locate their ground sign(s) in specifically defined locations in a common area of that same PUD, PDD, or PID.
- B. Signs located in public areas or right-of-ways. With the exception of: Signs erected by or on behalf of the governmental entity responsible for maintenance and repair of said right-of-way, including signs posting-legal notices, identifying public property, conveying public information, and signs directing or regulating pedestrian or vehicular traffic to businesses or other locations; bus stop signs erected by a public transit company; informational signs of a public utility regarding its poles, lines, pipes, or facilities; and awnings, projecting and suspended signs which conform to the conditions of these regulations.
- C. Beacons and Revolving Signs.
- D. Vehicle Signs: except those vehicles used in normal day-to-day operations of the business. Vehicles parked for more than three (3) consecutive days are not considered regularly used in the conduct of normal day-to-day business. Vehicle signs used in normal day-to-day business shall be parked to the rear or side of businesses when possible. When rear and side parking is not possible vehicles shall be parked at a minimum of one hundred (100) feet from all highways and expressways. No vehicle signs shall be parked in the City right-of-way, unless the business has no other parking areas on premise.
- E. Portable Signs: A moveable sign that is not permanently attached to either the ground or a structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; sign converted to A- or T- frames; menu and sandwich board signs; feather flags; pennants; handheld signs; caricature signs; inflatable's; umbrellas (used for advertising), except those permitted as Special Event Signs.
- F. Flashing signs, traveling lights or intensely lighted signs.

#### Sec. 21.11 - Special Event Signs/Displays.

Special use or event signs and displays are to be permitted but only under the following conditions and requirements:

- A. Prior to use of such special event signs/displays, and the erection and placement of any such temporary signs/display, the sign/display shall be registered with the Community Development Department. Such signs/displays shall be specifically described in writing as to their type and reason for special event. Signs shall not exceed five (5) feet in height. For all lots containing multiple businesses, the property owner shall be responsible for all signage placed on the property, regardless of who erects the sign. Such signs shall not be illuminated.
- B. The following types of signs/displays which attract attention to a particular business may be registered as special event signs/displays; balloons and inflatable's; feather flags; pennants; hand-held signs; caricature signs. A or T frames; menu and sandwich board signs; umbrellas; banners; plastic wire frame signs; flags
- C. The maximum size allowance for balloon and inflatable signs is one (1) sign, twenty (20) feet in height from grade. The maximum size allowance for hand-held signs is one (1) sign, six (6) square feet in sign face. The maximum size allowance for banners, plastic wire frame, A or T frames, menu and sandwich board signs is one (1) sign, twelve (12) square feet. The maximum size allowance for flags, not otherwise exempt, is one (1) flag, fifteen (15) square feet. The maximum amount of feather flags or pennants is two (2) per business. The maximum size allowance for umbrellas is 8' in diameter.

- D. All such signs shall not be placed within ten (10) feet of the street right-of-way or in any other way as to obstruct the view of motorists or pedestrians.
- E. An individual business shall be allowed a maximum of six (6) special event sign permits per calendar year, each of which shall be valid for four (4) consecutive days starting from the date of registration issuance or as noted on the registration.

Sec. 21.12 - Permit Exceptions/Activities.

The following activities shall not require a permit from the City of Foley, but the sign shall comply with the other provisions of this ordinance:

- A. Altering the advertising copy or message on an existing approved sign or marquee which is specifically designed for the use of replacement copy.
- B. Painting, cleaning or other normal maintenance and repair of a sign not involving structural changes.

Sec. 21.13 - Temporary Signs.

The following temporary signs (any sign that is used only temporarily and is temporarily attached to supports) are allowed with the following conditions, and do not require a permit. Such signs shall not be illuminated.

- A. Non-electric signs, with less than thirty-two (32) square feet of sign face, are permitted for a period of two (2) weeks, when advertising drives or events of a civic, educational or religious nature are involved. They may be located on and /or off premise.
- B. Each new business in the City is permitted one (1) non-electric sign, not to exceed thirty-two (32) square feet of sign face area, for a period of two (2) weeks provided it is not located on a public right-of-way nor causing a traffic hazard.
- C. Real Estate Signs:
  1. *On-Premise Real Estate "For Sale" or Rental Signs (Residential):* Two (2) signs per residential property advertising the sale or rental are permitted provided such signs do not exceed four (4) square feet of copy area. Such signs shall not be permitted for a period longer than thirty (30) days after closing the sale or rental of the property.
  2. *Off-Premise Real Estate or Rental Signs (Residential):* Two (2) signs per residential property advertising the sale or rental are permitted provided such signs do not exceed four (4) square feet of copy area. Such signs shall not be permitted for a period longer than thirty (30) days after closing the sale or rental of the property
  3. *On-Premise Real Estate "For Sale" or "For Rent" Signs (Commercial):* One (1) real estate "For Sale" or "For Rent" sign for commercially zoned properties is permitted. Another sign is permitted for each additional 500 feet of frontage, provided such sign(s) is (are) located entirely within the property and does (do) not exceed thirty-two (32) square feet of copy area. Such sign(s) shall be removed within thirty (30) days of closing the sale or rental of the property.
  4. *Off-Premise Real Estate "For Sale" or "For Rent Signs (Commercial):* One (1) sign advertising the selling or rental of such property is permitted, provided such sign does not exceed four (4) square feet of copy area. Such sign shall be removed within thirty (30) days of closing the sale or rental of the property.
  5. *Construction Signs:* Non-illuminated signs with less than thirty-two (32) square feet of sign face are permitted for a period beginning no sooner than actual demolition or construction activities begin and continuing until no later than the permanent sign is erected or the certificate of occupancy is issued, whichever comes sooner, provided said sign is not located on a public right-of-way nor causing a safety or traffic hazard.
  6. *Model Homes:* Temporary A-frame signs shall be allowed in residential zones only to be located on the lot of the model home during the business hours in which an agent(s) is present.
- D. Campaign or Election Signs are exempt provided that:
  1. Signs advocating or opposing a public office or a position on an issue to be determined at an election shall not exceed twelve (12) square feet in residential districts. In all other zoned districts, signs shall not exceed thirty-two (32) square feet.
  2. Reserved.
  3. Property owners shall be held responsible for violations of campaign and election signs.
  4. No signs shall be allowed in the public right-of-way, project into or overhang any right-of-way or be attached to any utility pole within the right-of-way.
- E. Decorative Displays
  1. Single balloons under twenty-four (24) inches in circumference that do not contain copy are considered decorative.
  2. Flags that display seasonal, holiday, governmental and political displays are considered decorative.

( Ord. No. 17-2046, 12-4-17)

Sec. 21.14 - Non-Conforming Signs.

21.14.1 *Signs eligible for characterization as "legal non-conforming (portable signs excluded).*

Any sign located within the city limits on the date of the adoption of this Ordinance or located in any area annexed to the City hereafter which does not conform to the provisions of this Ordinance, is eligible for characterization as a "Legal Non-Conforming" sign and is permitted, provided it meets the following requirements:

- A. A permit had been issued for the construction of such sign prior to the date of the adoption of this Ordinance, if one was required under any other or prior city ordinance, or if no sign permit was required under any prior applicable City ordinances for the sign in question, the sign must have been in compliance with the prior applicable City ordinances as of the date of the adoption of this Ordinance.
- B. If a sign was in compliance with all applicable regulations and laws prior to being annexed into the City of Foley, but is either prohibited or fails to conform with the Zoning Ordinance after annexation, then such sign may be considered a legal non-conforming sign.

#### 21.14.2 *Loss of Legal Non-Conforming Status.*

A legal non-conforming sign shall immediately lose its legal non-conforming status upon the occurrence of one (1) or more of the events listed in this Zoning Ordinance, pursuant to state law, or when there is a change in:

- A. The type of use or occupancy type on the property on which the sign is located;
- B. The location, size, height, or type of sign; or
- C. The amount of frontage such that the existing sign would not be permitted by this Ordinance.

## ARTICLE XXII. - REGULATION OF BILLBOARDS ALONG THE FOLEY BEACH EXPRESS

### Sec. 22.1 - Authority.

Pursuant to Act Number 2000-429 of the Alabama Legislature, the City of Foley has the exclusive zoning authority to regulate billboards along the Foley Beach Express (Eastern Corridor) in its police jurisdiction. Pursuant to Code of Alabama, Section 11-52-1, et seq., and City of Foley Ordinance 387-87, and the amendments thereto, Foley has the exclusive zoning authority within its corporate limits.

### Sec. 22.2 - Declaration of Policy.

The City of Foley hereby finds and declares that the erection and maintenance of billboards in the adjacent areas and visible from the Foley Beach Express should be prohibited in order to protect the public investment in said road, to promote the safe and orderly travel along said road, to promote the recreational value of public travel, and to preserve natural beauty.

### Sec. 22.3 - Definitions.

For the purposes of this Article, unless otherwise indicated, the following terms shall have the following meanings:

1. *Adjacent Area:* An area which is adjacent to and within 660 feet of the nearest edge of the right-of-way of the Foley Beach Express.
2. *Advertising Copy:* The artistic and/or written material on the sign face which is designed, intended or used to convey a message or information to the viewer.
3. *Billboard:* Any outdoor advertising sign, display, device, notice, figure, painting, drawing, message, placard, poster or thing which is designed, intended or used to advertise or inform the public of a business, a service, a location, a place, a commodity, or any other thing offered or available at a location other than the premises on which such sign is located.
4. *Community Development Director:* The Community Development Director appointed by the City of Foley and his/her designee. Such person responsible for the administration and enforcement of certain provisions of this Ordinance. The Community Development Director may be the same or different person as the Planner, Planning & Zoning Coordinator or any other designee.
5. *Centerline:* A line equidistant from the edges of the median separating the main-traveled ways of the Foley-Beach Express where it is divided or the centerline of the main-traveled way of the Foley-Beach Express where it is not divided.
6. *Digital Billboard:* A billboard (off-premises sign) with an electronic changeable copy sign face.
7. *Erect:* To construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish, but it shall not include any of the foregoing activities when performed as an incident to the change of the advertising copy.
8. *Foley-Beach Express:* That road connecting Highway 59 at a point North of Foley to Highway 180 in Orange Beach, Alabama.
9. *Footcandle:* A term used to describe a unit of measure of the density of light that falls on a surface. A footcandle is equal to one (1) lumen per square foot. A footcandle measures the amount of illumination on a surface from a light source.
10. *Legal Non-Conforming Billboard:* Any billboard which (1) was legally permitted prior to the effective date of this Article and which is properly constructed during the initial permit period or (2) was legally constructed and in existence prior to the effective date of this Article. A legal nonconforming billboard may lose its legal status pursuant to Section 22.6.
11. *Maintain:* To allow to exist.
12. *Maintraveled Way:* The through traffic lanes exclusive of frontage roads, auxiliary lanes and ramps.

13. *Nit*: A term used to describe a unit of measure for luminance intensity per unit area that is projected in a given direction. A nit is equal to one (1) cd per square meter. A nit measures the luminance of a light source which is closely related to the perceived "brightness" of the light source.
14. *Non-Conforming Billboard*: Any billboard which does not conform to this Article or which would not be permitted to be erected because of this Article.
15. *Sign Face*: That area of a billboard which is designed, intended or used to as the area on which the advertising copy is applied, attached or located.
16. *Sign, Billboard Double Stacked*: A single freestanding billboard sign structure that has two (2) sign faces aimed in the same direction of travel where one (1) sign face is positioned above the other sign face. A Billboard Double Stacked Sign may or may not have one (1) or more sign faces aimed in the opposite direction of travel.
17. *Sign, Billboard Merged Stack*: A billboard double stacked sign that has been lawfully converted into a single billboard sign face in compliance with all applicable laws and this Zoning Code.
18. *Standard Billboard*: A billboard (off-premises sign) that does not have an electronic changeable copy sign face.

#### Sec. 22.4 - Applicability.

This Article shall apply to all areas within the corporate limits or police jurisdiction of the City of Foley, as they exist now and in the future, which are within the adjacent areas of the Foley-Beach Express. This Article shall also apply to all billboards which are in the corporate limits or police jurisdiction of the City of Foley whose advertising copy (in whole or in part) can be comprehended, viewed or read from the main-traveled way of the Foley-Beach Express.

#### Sec. 22.5 - Erection of Billboards—Prohibited in Certain Areas.

No billboard shall be erected in an adjacent area of the Foley-Beach Express. Furthermore, no billboard shall be erected when its advertising copy (in whole or in part) can be read from the main-traveled way of the Foley-Beach Express even if beyond or outside of the adjacent area.

#### Sec. 22.6 - Nonconforming Billboards.

- A. Legal nonconforming billboards may be continued in use provided it is in a safe and good condition. The advertising copy of a legal nonconforming billboard may be changed as desired.
- B. A legal nonconforming billboard may not be:
  1. Structurally altered, amended or repaired so as to prolong or enhance the useful life of the billboard; or
  2. Altered, changed or moved in any manner that increases its size, shape, location, angle, or height; or
  3. Rebuilt, reestablished or repaired after the sign face and/or structural support is damaged or destroyed by more than fifty (50%) percent as determined by the Community Development Director.
- C. A nonconforming billboard which is not a legal nonconforming billboard, or which has lost its legal nonconforming status pursuant to subsection B above shall be removed at the owner's expense by either the owner or by the City of Foley.

#### Sec. 22.7 - Erection and Maintenance of Billboards, Exceptions to Sections 22.5 and 22.6.

The provisions of Sections 22.5 and 22.6 shall not be applicable to billboards of less than one (1) square foot in area, excluding the support, which are erected or maintained by a public utility to mark the location of any buried telephone cable, electric power line, gas line, waterline or other underground public utility facility, for the protection of the facilities of the public utility.

#### Sec. 22.8 - Penalty for Violation of Article.

Whoever erects, causes to erect, alters or maintains a billboard in violation of the provisions of this Article shall be guilty of a misdemeanor and shall be subject to a maximum fine of five hundred dollars (\$500.00) and/or a maximum sentence of imprisonment or hard labor for a period not exceeding six (6) months. Any billboard erected, altered or maintained in violation of the provisions of this Article which is not a legal nonconforming billboard shall be removed at the owner's expense by either the owner or by the City of Foley.

#### Sec. 22.9 - Appeals and Variances.

Any person, corporation or entity aggrieved by the decision or ruling of the Community Development Director shall have a right to appeal such decision or ruling to the Board of Adjustment and Appeals pursuant to Article XXV of the Foley Zoning Ordinance. Any person, corporation or entity seeking a variance from the regulations contained in this Article may seek a variance from the Board of Adjustment and Appeals pursuant to Article XXV of the Foley Zoning Ordinance.

#### Sec. 22.10 - Article Cumulative and Supplemental.

The provisions of this Article are cumulative, supplemental and in addition to the provisions found in Article XXI and the other Articles of the Foley Zoning Ordinance, and in the event of an inconsistency or conflict between this Article and any other provision, the more burdensome and stringent rule or remedy shall apply.



## Sec. 22.11 - Foley Directional Signs Exempt.

Signs erected by or on behalf of the City of Foley in the public right of way pursuant to City ordinances and regulations directing travelers to business locations from intersections are exempt from the prohibitions and requirements of this Article.

## Sec. 22.12 - Conversion of Legal Nonconforming Billboards to Digital Billboards.

Notwithstanding anything else contained in this Zoning Code to the contrary, a legal nonconforming standard billboard sign face may be converted into a digital billboard sign face without losing its legal nonconforming status, but only in the following circumstances and only subject to the following conditions:

- A. The owner of the billboards must first apply for and receive a Billboard Conversion Permit from the Community Development Department which is both a building permit for the to-be-converted billboard and a demolition permit for the to-be-removed billboards;
- B. The digital billboard sign face must be located on the same pole or vertical support structure that currently exists for the standard billboard being converted, and that the pole or support structure must not be moved in any manner;
- C. The digital billboard sign face must be installed at the same angle and direction of travel as the standard sign face being replaced;
- D. The digital billboard sign face must be no higher than the standard sign face being replaced (or for previously stacked sign faces, no higher than the lowest sign face);
- E. The digital billboard sign face must be no larger in square feet than the standard billboard sign face being replaced;
- F. The digital billboard sign face must be no larger than six hundred seventy-two (672) square feet;
- G. The digital billboard must be at least two thousand (2,000) feet from the nearest other digital billboard aimed in the same direction of travel.
- H. The digital billboard sign face must not be located beside, above, or below any other standard billboard sign face or digital billboard sign face on the same pole or support structure (no double faced billboards in which one (1) or both sign faces aimed in the same direction of travel is an electronic changeable copy sign).
- I. The digital billboard sign face may not be located in a historic district, a residential district, or be visible from either residentially zoned property or from property being used for residential purposes.
- J. The digital billboard must at all times adhere to the then-current technical specifications established by the City of Foley, which may be amended from time-to-time, but which currently provide as follows:
  1. Digital billboards may only display static messages or images and they may not have any effects or appearance of movement, travel, fade, pulse, blinking, animation, scrolling, flashing, or similar effects;
  2. Digital billboard messages or images cannot change more frequently than once every eight (8) seconds;
  3. Digital billboard images must transition instantly as seen by the human eye, and shall not use blinking, fading, rolling, shading, dissolving, or similar effects as part of the image transition or change.
  4. Each digital billboard shall be equipped with automatic light intensity controls and automatic ambient light monitors to control their level of illumination. The digital billboard must automatically adjust based on ambient light conditions to ensure that each sign face does not exceed illumination changes of 0.3 (three-tenths) of a foot-candle over ambient light levels if measured from the nearest property line of an abutting landowner (excluding public rights-of-way) or from two hundred fifty (250) feet away from the sign face (for six hundred seventy-two (672) SF signs), from two hundred (200) feet away from the sign face (for three hundred seventy-eight (378) SF signs), from one hundred fifty (150) feet away from the sign face for signs smaller than three hundred seventy-eight (378) SF, whichever is closer. Certification must be provided to the City demonstrating that each sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration may periodically be required by the City in its reasonable discretion, and when required it shall be completed within thirty (30) days at the sign owner's expense. During an inspection, one (1) hour or more following sunset, a properly calibrated light meter shall be used to obtain an ambient light reading in footcandles for the location with the digital sign either turned off or displaying a solid black copy, then the digital sign shall be turned on to full, standard white copy (color temperature six thousand five hundred (6,500) degrees Kelvin) to take another reading with the same meter at the same location. If the difference between the two (2) readings is 0.3 (three-tenths) of a footcandle or less, then the illumination level from the sign relative to ambient light is properly adjusted.
  5. Notwithstanding ambient light levels, each digital billboard sign shall be programmed so that its luminance does not exceed certain maximums. No digital billboard shall exceed six thousand five hundred (6,500) nits when measured from the sign's face at its maximum brightness between the time of one-half (½) hour after sunrise and one-half (½) hour before sunset as per the National Weather Service. No digital billboard shall exceed three hundred (300) nits when measured from the sign's face at its maximum brightness between the time of one-half (½) hour before sunset and one-half (½) hour after sunrise as per the National Weather Service. Certification must be provided to the City demonstrating that each sign has been preset to these maximum limits. Re-inspection and recalibration may periodically be required by the City in its reasonable discretion, and when required it shall be completed within thirty (30) days at the sign owner's expense. During an inspection a luminance meter shall be used to obtain a reading in Nits when the digital sign is turned on to full, standard white copy (color temperature six thousand five hundred (6,500) degrees Kelvin).
  6. Written certification from the digital sign manufacturer must be provided certifying that the light intensity of the sign has been preset to be

within the brightness levels specified in this Ordinance, and that the preset intensity level is protected from end user manipulation by password protected software or other approved method.

7. Each digital billboard sign face shall contain a default design that will freeze the device and message or image in one (1) position with a maximum luminance of three hundred (300) nits if any malfunction occurs.
  8. Each digital billboard sign face shall contain a "kill switch" which can cause the sign face to go dark regardless of the nature of any type of malfunction, and any malfunction that causes an image or message to be displayed causing movement, flashing or any similar effects, or exceeding the brightness levels established hereby, must be remedied or caused to go dark or static within six (6) hours.
- K. For each standard billboard sign face that the owner desires to convert to a digital billboard sign face, the owner must first remove a minimum of four (4) eligible standard billboard sign faces (including the standard sign face that is being converted). Eligible standard billboard sign faces being removed and not converted are those that are:
1. Located inside the corporate limits of the City of Foley;
  2. Located on the same road as the proposed digital billboard (unless the owner and the Community Development Director agree otherwise to facilitate the removal of billboards on a National Scenic Byway, a residential area, a historic district area, or other such locations where billboards are deemed more out of character).
  3. Not otherwise in violation of law or that are not otherwise required to be removed pursuant to government action;
- L. The operator of a digital billboard shall immediately, upon request, publish emergency information on each digital billboard such as weather alerts, Amber alerts, and similar law enforcement emergencies and announcements;
- M. The operator of a digital billboard shall, if reasonably requested, donate available advertising spots to the City of Foley for public announcements.

#### Sec. 22.13 - Conversion of Legal Nonconforming Billboard Double Stacked Sign into One Sign Face.

Notwithstanding anything else contained in this Zoning Code to the contrary, a legal nonconforming billboard double stacked sign may be converted into a single sign face by filling in the gap area between the legal nonconforming sign faces without losing its legal nonconforming status, but only in the following circumstances and only subject to the following conditions:

- A. The owner of the billboard double stacked sign must first apply for and receive a Double Stacked Billboard Conversion Permit from the Community Development Department which is both a building permit for the to-be-converted billboard sign faces and a demolition permit for the to-be-removed billboard or billboard sign face;
- B. The legal nonconforming billboard sign faces being merged together must remain in their same location, at their same angle and direction of travel, with the top of the higher sign face no higher than before and the bottom of the lower sign face no lower than before;
- C. The only allowed increase in the size of the sign faces shall be the area of the gap located between the legal nonconforming sign faces that are stacked one (1) on top of the other;
- D. The billboard merged stack sign may not be a digital billboard or have any electronic changeable copy;
- E. For each billboard double stacked sign that the owner desires to convert to a billboard merged stack sign, the owner must first remove or decommission one (1) eligible billboard sign face. Multiple conversions may be proposed on the same application or on contemporaneously filed applications by the same owner to maximize the use of the removal or decommission credit. Decommission in this context means to leave the sign face up, but permanently remove it from displaying any advertising copy and only have it display trees, clouds, and other non-commercial City of Foley approved images until such time as the entire billboard support structure and all sign faces are removed. Unless the entire billboard, including the pole and all sign faces, is being removed, the sign faces shall be decommissioned rather than physically removed for aesthetic reasons. At the time all the sign faces on a particular billboard support structure are decommissioned or due to be decommissioned, the owner shall remove the entire billboard support structure. Billboard sign faces that are eligible for removal or decommission credit are those that are:
  1. Located inside the corporate limits of the City of Foley;
  2. Not otherwise in violation of law or that are not otherwise required to be removed pursuant to government action;
  3. In existence at the time of the application;

#### ARTICLE XXIII. - SEXUALLY ORIENTED BUSINESSES

##### Sec. 23.1 - Power and Authority.

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

##### Sec. 23.2 - Definitions.

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

*City:* The City of Foley, Alabama.

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

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

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

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

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

#### Sec. 23.3 - Prohibited in Certain Areas.

Sexually Oriented Businesses are prohibited in the corporate limits of the City of Foley in the following areas, locations, and zones:

- A. within any zoning district other than those where Sexually Oriented Businesses are expressly permitted in Section 23.4 below;
- B. within one thousand (1,000) linear feet of a residential zoning district or a residential area of a mixed- Use District;
- C. within five hundred (500) linear feet of any pre-existing residence located in a non-residential zone;
- D. within one hundred (100) linear feet of any non-residential zoning district or non-residential area of any Mixed-Use District which does not expressly permit Sexually Oriented Businesses;
- E. within one thousand (1,000) linear feet of a pre-existing place of worship, School, Park, museum, library, cemetery, or funeral home;
- F. within two thousand (2,000) linear feet of any other Sexually Oriented Businesses;
- G. within the same building, structure, or portion thereof, as any other Sexually Oriented Business;
- H. within two thousand (2,000) linear feet of the Foley Beach Express Overlay District;
- I. within one thousand (1,000) linear feet of County Road 20, County Road 26, or County Road 65; or
- J. within two thousand (2,000) linear feet of Alabama Highway 59, U.S. Highway 98, or the Foley Beach Express.

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

#### Sec. 23.4 - Permitted in Certain Areas.

Subject to the spacing and minimum distance prohibitions contained in this Ordinance, a Sexually Oriented Business is a permitted use only within those areas of the City zoned B-1A Extended Business District or M-1 Light Industrial District.

### ARTICLE XXIV. - OVERLAY DISTRICTS

#### Sec. 24.1 - "Historic Overlay District".

##### 24.1.1 *Definitions.*

- A. Historic District shall mean the Foley Downtown Area Historic District.

- B. Historic District Overlay shall mean the site development regulations and criteria applicable within the Historic District Overlay Boundaries.
- C. Historic District Overlay Boundaries shall mean all property located within the Foley Downtown Area Historic District.

#### 24.1.2 Purpose.

The purpose of the Historic District Overlay is to establish flexible land development requirements that preserve and maintain the existing character of historically significant areas by formulating site development regulations and criteria that allow compatible or similar development within the Foley Downtown Area Historic District.

#### 24.1.3 Applicability.

The regulations and criteria of the Historic District Overlay are applicable to the geographic area within the Historic District Overlay Boundaries. The underlying zoning standards regulating the use of land within the Historic District Overlay Boundaries remain applicable. Properties within the Historic District Overlay Boundaries shall comply with the Historic District Overlay in addition to the existing regulations of the underlying zoning classification(s).

#### 24.1.4 Regulations and Criteria.

The Historic District Overlay shall be subject to the following regulations and criteria:

- A. Shall be determined by the underlying zoning classification(s).
- B. All new construction and all alterations and demolition to existing structures and buildings and any material changes in the exterior appearance of a property, building, structure, site, object or work of art within the Historic District Overlay Boundaries, in addition to compliance with the above district requirements (as set forth in the underlying zoning district), and other adopted ordinances.

#### Sec. 24.2 - Foley Zoning Map.

The Foley Zoning Map shall be amended and shall reflect the designation of the Historic District Overlay according to the Historic District Overlay Boundaries and the letter H added as a suffix to the underlying zoning district(s).

#### Sec. 24.3 - Repealer.

All ordinances and laws of the City of Foley, Alabama, or parts thereof, which are in conflict with the provisions of this ordinance, are hereby repealed.

#### Sec. 24.4 - Severability.

In the event any section, subsection, sentence, clause or phrase of this Ordinance shall be declared or held invalid or unconstitutional by any court of competent jurisdiction, such holding shall in no manner affect the other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or held invalid or unconstitutional were not originally a part thereof.

#### Sec. 24.5 - Effective Date.

This ordinance shall become effective immediately upon its adoption and publication.

#### Sec. 24.6 - "Foley Downtown Overlay District (FDOD)".

The FDOD focuses on the preservation and rehabilitation of historic buildings and/or new structures and their elements. The goal for alterations to non-contributing buildings and new construction in the FDOD is to ensure compatibility with existing and new development. The intent is to foster a strong viable downtown as a walkable commercial, civic, residential and cultural art center with its own unique identity.

#### Sec. 24.7 - Applicability.

The FDOD is established to serve as an overlay to the established base zoning district. Base districts within the FDOD include B1 (Central Business District) and B1A (Extended Business District). Except as modified by the FDOD, the provisions of the base district shall apply to all development within the boundary. In the event the regulations conflict, the applicable FDOD regulations shall apply.

#### Sec. 24.8 - Establishment of FDOD Boundaries.

A map of the FDOD overlay boundary is included in the Zoning Ordinance. The Foley Zoning Map shall reflect the designation of the Foley Downtown Overlay District according to the Foley Downtown Overlay District Boundaries and the letters FDOD added as a suffix to the underlying zoning district(s).

#### Sec. 24.9 - Land Uses.

- A. *Uses/Structures Permitted:* Stores selling food; restaurants; general merchandise such as apparel, furniture, housewares and household wares, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and laundry pick-up stations; barber and beauty shops; shoe repair shops; offices; banks; post offices and similar services; any retail business not specifically restricted herein; hotels/motels; joint

residential and commercial use.

- B. *Uses/Structures Permitted on Appeal:* Manufacturing incidental to a retail business where articles are sold at retail on the premises; and pet stores.
- C. *Uses/Structures Prohibited:* Any use or structure not specifically permitted or permitted on appeal in this Section or in Section 13.1.1 or 13.1.2 of Article XIII including kennels; pawn shops; tattoo and body art shops; towing company storage yards; industrial uses not specifically permitted herein; mobile/manufactured dwellings; RV's; and wholesale business.

#### Sec. 24.10 - Signs.

Sandwich-type board signs are allowed on the sidewalk/right-of-way but shall not be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. The signs are only allowed during the hours the business is open to the public and must be placed in front of the store front. The signs cannot exceed six (6) square feet.

#### Sec. 24.11 - Displays.

Merchandise may be allowed on the sidewalk/right-of-way but shall not be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. Only merchandise permitted to be sold on the premises may be displayed outdoors. Merchandise is only allowed during the hours the business is open to the public and must be placed directly at the store front.

#### Sec. 24.12 - Outdoor Dining.

Sidewalk dining areas, extending from existing restaurants, on the public right-of-way must be approved by City staff. If City staff has any concerns with the request, it may be forwarded to City Council for a decision. The areas cannot be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. The number of allowable outdoor seats shall be no greater than thirty (30%) percent of the total permitted occupancy inside the restaurant. This use may require temporary buffers for the safety of the diners.

#### Sec. 24.13 - Mobile Merchandise Vendors.

Temporary approval may be granted on the sidewalk/right-of-way but must be approved by City Council. The vendors cannot be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. Vendors must have proper licenses to operate including but not limited to a City of Foley business license.

#### Sec. 24.14 - Mobile Food/Sidewalk/Street Vendors.

Temporary approval may be granted on the sidewalk/right-of-way but must be approved by City Council. The vendors cannot be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. Vendors must have proper licenses to operate including but not limited to a City of Foley business license.

#### Sec. 24.15 - "Foley Beach Express Overlay District (FBEOD)".

The FBEOD focuses on providing good traffic flow by incorporating limited access along the roadway and easy ingress/egress to developments. The FBEOD establishes a defined corridor for appropriate consideration of annexation, zoning, and overall consistency of architectural and streetscape elements. The Future Land Use map recommends the following land uses: Mixed Use: Commercial/Residential; Retail Commercial Nodes at Major Intersections; Greenspace/Greenway as Civic or Public Benefit; and Industrial Parks. The intent is to foster an atmosphere of creative development allowing the Foley Beach Express to become a destination for living, recreation and working.

#### Sec. 24.16 - Applicability.

The FBEOD is established to serve as an overlay to the established base zoning district. Except as modified by the FBEOD, the provisions of the base district shall apply to all development within the boundary. In the event the regulations conflict, the applicable FBEOD regulations shall apply.

#### Sec. 24.17 - Establishment of FBEOD Boundaries.

A map of the FBEOD overlay boundary is included in the Zoning Ordinance.

#### Sec. 24.18 - Land Uses.

- A. *Uses/Structure Permitted based on individual zoning districts including:* Stores selling food; restaurants/drive-in eating places; general merchandise such as apparel, furniture, housewares and household wares, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and laundry pick-up stations; barber and beauty shops; shoe repair shops; offices; banks; post offices and similar services; automobile filling stations; auto repair, minor; major automobile dealerships with incidental repair services; any retail business not specifically restricted herein; places of amusement and assembly; hotels/motels; joint residential and commercial use; any residential use not prohibited; office/warehouses; professional offices; mixed uses based on approved PUD and PDD.

- B. *Uses/Structures Permitted on Appeal:* Manufacturing incidental to a retail business where articles are sold at retail on the premises.
- C. *Uses/Structures Prohibited:* Any use or structure not specifically permitted or permitted on appeal in this Section or in Section 13.1.1 or 13.1.2 of Article XIII including kennels; pawn shops; tattoo and body art shops; towing company storage yards; automobile repair, major; industrial uses not specifically permitted herein; and mobile/manufactured dwellings.

#### Sec. 24.19 - Site Layout.

Proposed development must submit to the Planning Commission for approval a detailed site layout plan or master plan. Each development should have an individualized layout and street grid pattern supporting internal traffic circulation with limited access to the Foley Beach Express and alternative access to feeder roads and adjacent residential areas.

##### Site Plan Contents:

- A. Most recent survey showing all property boundaries and easements.
- B. All bordering streets, avenues, roadways, or other public ways.
- C. Parking lots, ingress and egress, proposed and existing landscaping.
- D. Placement and dimensions of proposed and existing structures.
- E. Proposed colors and facades of structures.
- F. Locations and types of signage.
- G. Use/Occupancy type of the property and structures.
- H. Tax parcel number of lot or lots proposed for use.
- I. The site plan shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals one hundred (100) feet and of such accuracy that can readily interpret the site plan, and shall include more than one (1) drawing where required for clarity.

#### Sec. 24.20 - Building Scale.

Building heights including parapets and other architectural embellishments should be varied reflecting the individualized character of retail architecture. All street level units should serve a retail or commercial purpose; upper stores may serve additional retail, commercial, professional office space or residential uses.

#### Sec. 24.21 - Building Orientation.

No matter which way a structure faces, buildings adjacent to the Foley Beach Express should present an architectural façade, or use landscaping areas, on the Foley Beach Express side of the structure for aesthetic appeal. In some developments it may be appropriate to incorporate service alleys for facilitating development of multiple-sided street frontages. However, other parts of a development may benefit from holding street activity to one (1) side, while the back side may incorporate a parking deck or other parking facilities as well as service accommodations.

#### Sec. 24.22 - Access and Entry Points.

While primary entry points would relate to major intersections along the Foley Beach Express, site development patterns should facilitate internal traffic circulation and incorporate multiple options for gaining access to and from the development. This reduces the need for local traffic on the Foley Beach Express by ensuring connection to the surrounding neighborhoods. Entry points should address the Foley Beach Express with Gateways. Entry streets should contain building facades oriented in a manner to provide interest to the Foley Beach Express travelers.

#### Sec. 24.23 - Architectural Style and Exterior Finishes.

All exterior finishes should reflect local or regional design, consistent within the development. As with building heights, materials, size and placement of windows and doors, awnings, overhangs and paint selections should be varied throughout the development. The plan would discourage the City from approval of architectural specifications which contain repetitive features often referred to as "cookie cutter" design schemes.

#### Sec. 24.24 - Parking Design with Tree Canopy and Green Buffers.

Traditional street front parking should be incorporated for purposes of convenience and in keeping with the typical and desirable look of an active, populated, and vibrant town center. Additional parking should be buffered with landscape and vegetated material in accordance with City landscape standards.

#### Sec. 24.25 - Walkability, Biking and Other Alternative Modes of Transportation.

The City encourages sidewalks, bicycle accommodations and other methods of alternative transportation. Sidewalks should be of comfortable width (in no case less than five (5') feet) and may have varied surfaces ranging from concrete to brick and stone. Sidewalks and bike lanes should connect throughout any development and adjacent neighborhoods. Attractive bicycle racks should be incorporated throughout the development. The adopted Bicycle and Pedestrian Plan should be used as a guideline.

## Sec. 24.26 - Proposed Greenways.

If applicable, each site review should include connection to the proposed greenway system adopted as part of the City of Foley Comprehensive Plan.

## Sec. 24.27 - Signs.

Sandwich-type board signs are allowed on the sidewalk/right-of-way but shall not be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. The signs are only allowed during the hours the business is open to the public and must be placed in front of the store front. The signs cannot exceed six (6) square feet.

## Sec. 24.28 - Displays.

Merchandise may be allowed on the sidewalk/right-of-way but shall not be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. Only merchandise permitted to be sold on the premises may be displayed outdoors. Merchandise is only allowed during the hours the business is open to the public and must be placed directly at the store front.

## Sec. 24.29 - Outdoor Dining.

Sidewalk dining areas, extending from existing restaurants, on the public right-of-way must be approved by City staff. If City staff has any concerns with the request, it may be forwarded to City Council for a decision. The areas cannot be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. The number of allowable outdoor seats shall be no greater than thirty (30) percent of the total permitted occupancy inside the restaurant. This use may require temporary buffers for the safety of the diners.

## Sec. 24.30 - Mobile Merchandise Vendors.

Temporary approval may be granted on the sidewalk/right-of-way but must be approved by City Council. The vendors cannot be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. Vendors must have proper licenses to operate including but not limited to a City of Foley business license.

## Sec. 24.31 - Mobile Food/Sidewalk/Street Vendors.

Temporary approval may be granted on the sidewalk/right-of-way but must be approved by City Council. The vendors cannot be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. Vendors must have proper licenses to operate including but not limited to a City of Foley business license.

## Sec. 24.32 - Alabama Coastal Connection Scenic Byway.

The purpose of the Alabama Coastal Connection Scenic Byway is "to identify, preserve, protect and enhance scenic, historic, natural, recreational, cultural and archaeological resources; enhance recreation; and, promote economic development through tourism and education in the history, culture and natural beauty of the City of Foley and coastal Alabama." A map of the Byway can be found at [www.alabamacoastalconnection.com](http://www.alabamacoastalconnection.com).

## ARTICLE XXV. - BOARD OF ADJUSTMENT AND APPEALS

## Sec. 25.1 - Appointment, Duties and Responsibilities.

In accordance with Code of Alabama, 1975, article 11-52-80 A Zoning Board of Adjustment and Appeals is hereby established by the legislative body of City of Foley. The board of adjustment shall consist of five (5) members, each to be appointed for a term of three (3) years, except that in the first instance one (1) member shall be appointed for a term of three (3) years; two (2) for a term of two (2) years and two (2) for a term of one (1) year, and thereafter each member appointed shall serve for a term of three (3) years or until his successor is duly appointed. In addition to the five (5) regular members provided for in this subsection two (2) supernumerary members shall be appointed to serve on such board at the call of the chairman only in the absence of regular members and while so serving shall have and exercise the power and authority of regular members. Such supernumerary members shall be appointed to serve for three-year terms and shall be eligible for reappointment. Appointed members may be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

## Sec. 25.2 - Proceedings of the Board of Adjustment.

The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this article. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman or, in his/her absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and of other official actions, all of which shall immediately be filed in the office of the board and shall be a public record.

## Sec. 25.3 - Powers and Duties of the Board.

- A. *Administrative Review:* The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this article or of any ordinance adopted pursuant thereto.
- B. *Special Exceptions:* The board shall hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.
- C. *Variations:* The Board may 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 would result in unnecessary hardship and so that the spirit of the Ordinance shall be observed and substantial. A variance from the terms of this Ordinance shall not be granted by the Board unless and until:
  1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
  2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
  3. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.

25.3.1 *Procedure for Appeals.*

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit forthwith to the board all papers constituting the record upon which the action appealed was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due.

25.3.2 *Decisions of the Board of Adjustment and Appeals.*

In exercising the above mentioned powers, the Board may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirements, decision, or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

25.3.3 *Duties of the Board of Adjustment and Appeals, City Government and Courts on Matters of Appeal.*

It is the intent of the governing authority of the City that all questions of interpretation and enforcement of this Ordinance shall be presented first to the Building Official or Community Development Director. Other than those applications and matters upon which the terms and provisions of this Ordinance may require action and decision by the Board, only the appeals taken in the manner and form as provided in this Ordinance from the actions and decision of the Building Official or Community Development Director will be considered and acted upon by the Board. However, any interested party who is aggrieved by any action or decision of the Board may take an appeal there from to a Circuit court of law, as provided for in the State Law.

25.3.4 *Board of Adjustment and Appeals Fees.*

All applications to the Board for interpretations, special exceptions, or variances must be accompanied by a check, payable to the City of Foley, or cash in the amount of one hundred fifty dollars (\$150.00). All other Ordinances and Regulations are hereby repealed to reflect the above change.