

Introduction

This Zoning Ordinance is the result of much work and review from the Town and its citizens. It is the Town's hope that you find the document clear, concise, and easy to use. Should you have any questions, please feel free to contact Town Hall.

Best Regards,

Charles S. Houser, Mayor
Town of Magnolia Springs, Alabama

Town of Magnolia Springs Town Council

Charles S. Houser, Mayor
Bob Holk
Rick Odess
Kenneth Underwood
Brett Gaar
Kenny Laurendine

Town of Magnolia Springs Planning Commission

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Bob Holk – Councilmember – Vice Chairman
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**TOWN OF MAGNOLIA SPRINGS
MAGNOLIA SPRINGS, ALABAMA**

**ZONING ORDINANCE
ORDINANCE NO. 2010-06**

**RECOMMENDED BY THE PLANNING COMMISSION ON
FEBRUARY 11, 2010**

ADOPTED BY TOWN COUNCIL ON JUNE 22, 2010

Charles S. Houser

CHARLES S. HOUSER, MAYOR

ATTEST:

Karen S. Biel

KAREN S. BIEL, TOWN CLERK

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Article 1

General

A. Short Title

This Ordinance shall be known and may be cited as the “Magnolia Springs Zoning Ordinance”, “Zoning Ordinance”, or “this Ordinance”.

B. Purpose, Mission and Authority

1. **Purpose:** The purpose of this Zoning Ordinance is to promote the health, safety, morals and general welfare of the residents of the Town of Magnolia Springs, Alabama in accordance with the Comprehensive Plan.
2. **Mission:** The overall mission of this Ordinance is to:
 - a. Maintain and preserve cultural and natural resources
 - b. Maintain historic nature of the Town
 - c. Maintain the character of the Town
 - d. Maintain the small Town atmosphere.

The Town, however, does not desire to discourage or hamper appropriate development or growth in the community.

3. **Authority:** The rules and regulations herein set forth are hereby adopted in accordance with the requirements of §11-52-70 through §11-52-84, Code of Alabama 1975, as amended.

C. Applicability

1. **Jurisdiction:** The rules and regulations herein set forth are hereby adopted in accordance with the requirements of §11-52-70 through §11-52-84, Code of Alabama 1975, as amended.
2. **Conflict with other Laws:** Whenever the requirements of these regulations are in conflict with the requirements of any other lawfully adopted statutes, rules, regulations or ordinances, the more restrictive, or that imposing the higher standards, shall govern.

3. **Interpretation of Boundaries:** The boundaries of the zoning districts are shown on the map adopted by the Magnolia Springs Town Council. Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the zoning map, the following rules shall apply:
 - a. Unless otherwise indicated, the district boundaries are indicated as approximately following property lines, land lot lines, center lines of ROW, shorelines of streams, or other bodies of water, or civil boundaries, and they shall be construed to follow such lines.
 - b. Where district boundaries are approximately parallel to the center lines of ROW, streams, or other bodies of water, or said lines extended, the district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning map. If no distance is given, the dimensions shall be determined by the use of the scale shown on the zoning map.
 - c. Where a public road, street or alley or other public property is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to the vacated or abandoned road, street or alley.
 - d. The final determination of a district boundary shall be made in conformance with the legal description contained in the adopted amending ordinance. Should the description be incomplete the Town Council is empowered to determine the legislative intent and shall adopt an amending ordinance making the needed corrections.
4. **Disclaimer of Liability:** These regulations shall not create liability on the part of the Magnolia Springs Town Council, or its assigns, or any officer or employee thereof for any damages that may result from reliance on these regulations or any administrative decision lawfully made hereunder.
5. **Severability and Validity:** Each phrase, sentence, paragraph, section or other provision of these regulations is severable from all other such phrases, sentences, paragraphs, sections and provisions. Should any phrase, sentence, paragraph, section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such declaration shall not affect any other portion or provision of these regulations.
6. **Illustrations and Commentary:** Illustrations provided in this ordinance are intended to graphically demonstrate and communicate concepts to the user. Unless noted the graphics are not regulatory. Commentary boxes are also provided to explain concepts and facilitate the application of certain regulations. Commentary boxes are not regulatory.

D. Application of Regulations:

1. **Use of land:** No land shall be used except for a use permitted in the zoning district in which it is located. However, any tract of farmland or silviculture in active use may continue to be used regardless of the zoning district in which it may be located.
2. **Structures:** No structure shall be erected, converted, moved or structurally altered so as to exceed the dimensional standards established for the district in which it is located.
3. **Lots and Parcels:** No lot may be subdivided except in conformity with the area and dimensional regulations of the zoning district in which the lot is located.

E. Establishment of Districts:

The following zoning districts are hereby established for the Town of Magnolia Springs:

<u>Name</u>	<u>Description</u>
RA	Rural Agricultural District
ER	Single Family Estate District
R-1(a)	Single Family District
R-1(b)	Single Family District
R-2(a)	Single Family District
R-2(b)	Single Family District
B-1	Professional Business District
B-2	Local Business District

F. Identification of Official Zoning Map:

The official zoning map of the Town of Magnolia Springs shall be kept on file by the Town Clerk. The official copy shall be signed by the Chairman of the Planning Commission and the Mayor, and be attested by the Town Clerk. The official zoning map supercedes any other copies of the map in either digital or paper form. The official map is available for public inspection in the Town Clerk’s office during customary business hours.

Article 2

Procedures and Administrative Processes

A. Due Process Procedures

1. **Town Council:** The Town Council shall execute and exercise final and all legislative determinations over zoning matters as provided in this ordinance and in concert with the Code of Alabama 1975, as amended.
2. **Planning Commission:**
 - a. **Establishment:** The Planning Commission of the Town of Magnolia Springs, Alabama is hereby established in accordance with Title 11, Chapter 52, of the Code of Alabama 1975, as amended, and Ordinance 2007-06, establishing a Planning Commission.
 - b. **Empowerment and Authorization:** The Planning Commission is hereby authorized and empowered to exercise all powers and do all that is authorized to such Commission by Title 11, Chapter 52, of the Code of Alabama 1975, as amended.
 - c. **Composition of the Planning Commission:** The Commission will consist of nine members from the following:
 - i. The Mayor or his/her designee;
 - ii. a Town Council representative appointed by the Town Council;
 - iii. an administrative official, appointed by the Mayor;
 - iv. Six citizens appointed by the Mayor.
 - d. **Terms:** Terms of each Planning Commission member shall be set as established by Ordinance 2007-06 in accordance with Title 11, Chapter 52, of the Code of Alabama 1975, as amended.
 - e. **Removal of Members:** Members other than the member selected by the Council may, after a public hearing, be removed by the Mayor for inefficiency, neglect of duty or malfeasance in office. The Council may for like cause remove the member selected by it. The Mayor or Council, as the case may be, shall file a written statement of reasons for such removal.

- f. Vacancies: Vacancies occurring otherwise than through the expiration of term shall be appointed for the unexpired term by the Mayor in the case of members selected or appointed by him or her, by the Council in the case of the member, or other members selected by it.
- g. Duties and power:
 - i. It shall be the function and duty of the Planning Commission to make and adopt a master plan also known as a Comprehensive Plan for the physical development of the municipality, including any areas outside of its boundaries which, in the Commission's judgment, bear relation to the planning of the municipality.
 - ii. To review and make recommendations on Zoning Map Amendment applications to the Town Council.
 - iii. To review and make recommendations on site plans as required by the Zoning Ordinance.
 - iv. To review and make recommendations to the Town Council on Zoning Text Amendments
 - v. To commission special studies and committees to implement the goals and objectives of the Comprehensive Plan.
- h. Rules of Procedure: The Planning Commission shall adopt rules of procedure as it deems in order to conduct orderly business. At a minimum the rules of procedure shall require:
 - i. The election of a Chairman from the Commission
 - ii. The election of a Vice-Chairman from the Commission
 - iii. The appointment of a Secretary of the Commission.
 - iv. The determination of the regular meeting schedule time and place.
 - v. The definition of a quorum.
 - vi. That all meetings have a quorum be open to the public.
 - vii. That the Commission maintains minutes and documents submitted.
 - viii. That all files are public record and available for public review.

3. **Board of Adjustment**

- a. Establishment: The Board of Adjustment of the Town of Magnolia Springs, Alabama is hereby established in accordance with Title 11, Chapter 52, of the Code of Alabama 1975, as amended and Ordinance 2007-10, establishing a Board of Adjustment.
- b. Empowerment and Authorization: The Board of Adjustment is hereby authorized and empowered to exercise all powers and do all that is authorized to such Board by Title 11, Chapter 52, of the Code of Alabama 1975, as amended.
- c. Composition: The Board of Adjustment shall consist of five (5) members plus two (2) supernumerary members, who serve on call of the chairman in the absence of regular members.
- d. Terms: Appointment and terms of members shall be in accordance with Ordinance 2007-10, and Title 11, Chapter 52, of the Code of Alabama 1975, as amended.

- e. Removal of Members: Appointed members may be removed for cause by the appointing authority upon written charges and a public hearing.
 - f. Vacancies: Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
 - g. Duties and Powers: The board of adjustment shall have the following powers:
 - i. To hear and decide administrative appeals.
 - ii. To hear and decide special exceptions.
 - iii. To authorize upon appeal in specific cases a variance from the terms of the Ordinance.
 - h. Rules of Procedure: The Board of Adjustment shall adopt rules of procedure as it deems in order to conduct orderly business. At a minimum the rules of procedure shall require:
 - i. The election of a Chairman from the Board.
 - ii. The election of a Vice-Chairman from the Board.
 - iii. The appointment of a Secretary of the Board.
 - iv. The determination of the regular meeting schedule time and place.
 - v. The definition of a quorum
 - vi. That all meetings that have a quorum be open to the public.
 - vii. That the Board maintains minutes and documents submitted.
 - viii. That all files are public record and available for public review.
4. **Town Staff:** The Planning Commission and the Board of Adjustment shall by resolution appoint a member of the Town Staff to receive process, review applications for completeness, and advertise the consideration of applications as required. The Town Staff person(s) may or may not make recommendations to the Planning Commission and the Board regarding individual applications. The Commission and the Board may retain the advice, expert opinion, or other services of professionals in order to appropriately make recommendations and final determinations. These professionals shall not be voting members of either the Commission or the Board, but shall act in an advisory capacity only.

B. Application Procedures

Application Procedure Table						
Acting Body	Planning Commission and Town Council			Zoning Board of Adjustment		
	Zoning Text Amendment	Conditional Use	Rezoning Application	Variance	Appeal	Special Exception
Town Staff	R; RV; RC	R; RC	R; RV; RC	R; RV; RC	R; RV	R; RV; RC
Planning Commission	PH; RC	PH, FD	PH; RC			
Town Council	PH; FD		PH; FD			
Board of Adjustment				PH; FD	FD	PH; FD

R = Receive Application
 RC = Recommendation
 FD = Final Decision

RV = Review Application
 PH = Public Hearing

1. **Zoning Amendment Types**

- a. Amendment types:
 - i. Zoning Map Amendments: An application to rezone property may be initiated by a resolution of the Town Council, a resolution of the Planning Commission, or a property owner.
 - ii. Zoning Text Amendments: Ordinance text amendments may only be initiated by a resolution of the Planning Commission, a resolution of the Town Council, or the town staff person(s) designated to provide assistance to the Planning Commission.

- b. Applications: Rezoning applications shall be made on forms provided by the Town. Any and all fees required as part of the application must also be received by the Town in full. All fees are non-refundable. The application shall be complete at the time of submission, as determined by the appointed town staff. If deemed incomplete at the time of submission the applicant has the right to request in writing how application may be remedied so it is complete.

- c. Staff Review: Town Staff shall have an opportunity to review rezoning applications. Staff has the right to ask the applicant for additional information and / or clarifications in order to fully understand the nature and potential impact of a requested amendment. All requested additional information and / or clarification documents shall be submitted prior to the application being considered by the Planning Commission.

- d. Public Notice: All zoning map or rezoning amendments require public hearings with public notice being provided as follows:
 - i. Before acting on any proposed rezoning or text amendment, a public hearing shall be held by the Planning Commission with proper legal notice posted at least 15 calendar days prior to the hearing.
 - ii. Notice shall also be provided by certified mail to all adjacent property owners as they appear in the County tax records. The notice must be mailed at least 5 calendar days prior to the public hearing.
 - iii. A sign provided by the Town, indicating the proposed amendment, shall be posted on the subject property, adjacent to all public right of ways no less than 21 calendar days prior to the date of the hearing. The case number and contact information shall be listed.
 - iv. A notice shall be posted in at least 3 separate and publicly accessible locations in the Town. Posting in these locations shall be made a least 15 calendar days prior to the public hearings.
 - v. All public notices, with the exception of the sign posted on the subject property, shall provide at a minimum the following information:
 - a) property owner
 - b) current zoning
 - c) proposed zoning
 - d) brief description of the request and a location map
 - e) that the application is available for public inspection at Town Hall
 - f) The time, place, and date of the public hearing

- g) That persons who sign up to address the Commission or Council shall have an opportunity to be heard.

- e. Factors for Reviewing Proposed Amendments: In deciding whether to recommend approval of a proposed amendment, or in deciding whether to adopt a proposed amendment, the Planning Commission and Town Council shall take into consideration whether the proposed amendment is consistent with the following factors:
 - i. Is the requested change compatible with the existing development pattern and the zoning of nearby properties?
 - ii. Has there been a change in the conditions upon which the original zoning designation was based? Have land uses or conditions changed since the zoning was established?
 - iii. Is the request in conformance with the Comprehensive Plan?
 - iv. Will the proposed change conflict with existing or planned public improvements?
 - v. Will the proposed change adversely affect traffic patterns or congestion?
 - vi. Is the proposed amendment consistent with the development patterns in the area and appropriate for orderly development of the community? The cost of land or other economic considerations pertaining to the applicant shall not be a consideration in reviewing the request.
 - vii. Is the proposed amendment the logical expansion of adjacent zoning districts, or does it provide an appropriate buffer between incongruent zoning districts?
 - viii. Is the timing of the request appropriate given the development trends in the area?
 - ix. Will the proposed change adversely impact the environmental conditions of the vicinity or the historic resources of the Town?
 - x. Will the proposed change adversely affect the health, safety and welfare of the Town and the vicinity?
 - xi. Does the request conflict or conform to other planning documents and plans adopted by the Town Council?
 - xii. Other matters which may be appropriate.

- f. Recommendation Required: The Planning Commission must make a recommendation on an application prior to Town Council consideration.

- g. Planning Commission Review: The Planning Commission has several options available in reviewing an application:
 - i. Recommend approval by simple majority
 - ii. Recommend denial by simple majority
 - iii. Table the application once for no more than 30 calendar days for further consideration without the applicants consent.
 - iv. Remand the application to Staff for further study once for no more than 30 calendar days without the applicants consent.
 - v. Recommend approval with specific revisions that mitigate any negative impacts of the amendment based on the factors for approval above.

- h. Restrictive Zoning: The Town Council may not approve a rezoning other than the rezoning posted unless the zoning is more restrictive.

- i. **Application Limits:** A property or a portion of a property cannot be considered by the Planning Commission within 365 calendar days of the final decision by the Town Council or withdrawal of the application. Should an application be withdrawn by the applicant prior to the public hearing at the Planning Commission, no prejudice is attached; however, once the public hearing is opened the prejudice of 365 calendar days is attached to the property or portions thereof.
 - j. **Misrepresentation of Facts:** Should any facts be determined to be materially misrepresented to the Planning Commission or the Town Council; the Council is empowered by a supermajority vote to nullify the approved zoning designation and the property would be granted its previous zoning entitlements. The process does not require a hearing or recommendation at the Planning Commission. It does, however require a public hearing at a Town Council meeting and the owner shall have the right to be heard and present information.

- 2. **Conditional Approvals:** The Planning Commission and the Town Council have the right and authority to attach conditions to recommendations and final approvals. The purpose of any condition is to mitigate any negative impact to adjacent property owners and / or the general public. Conditions are intended to protect adjacent property from negative impacts, not to regulate the use of the property beyond the permitted uses in the zoning classification. Many of these situations are site-specific and directly related to the environmental characteristics of individual parcels of property and the existing environment. The Planning Commission and the Town Council are empowered to approve a project with conditions, with or without the applicant's consent. If the applicant is aggrieved by the placement of conditions the remedy is via civil action, not the Board of Adjustment.

- 3. **Conditional Uses (Noted CU in Table of Permitted Uses)**
 - a. **Authorization:** The Planning and Zoning Commission may, under the prescribed standards and procedures contained herein, authorize the construction or initiation of any use that is expressly permitted as a conditional use in a particular zoning district; however, the Town of Magnolia Springs reserves full authority to deny any request for a conditional use, to impose conditions on the use, or to revoke approval at any time, upon finding that the permitted use will or has become unsuitable and incompatible in its location as a result of any nuisance or activity generated by the use.
 - b. **Application procedure:**
 - i. An application for conditional use approval must be submitted to the Planning and Zoning Commission at least 30 days prior to the regularly scheduled meeting of the Planning and Zoning Commission.
 - ii. The Planning and Zoning Commission shall, upon determination that the application complies with all applicable submission requirements, receive the application and schedule it for public hearing by the Planning and Zoning Commission.

- iii. The Planning and Zoning Commission shall, 5 days before the scheduled public hearing, provide notice of such hearing by certified mail to the owners of property adjacent to the proposed conditional use as their names appear in the county tax records.
 - iv. The Town Administrative Staff shall render a decision at the conclusion of the public hearing or within 45 days from the date of the public hearing if it is determined that action must be deferred to allow for additional input and review.
 - v. Any petition for conditional use approval may be withdrawn prior to action thereon by the Planning and Zoning Commission at the discretion of the applicant initiating the request upon written notice to the Planning and Zoning Commission.
- c. Submission requirements. No request for conditional use approval shall be considered complete until all of the following has been submitted:
- i. Application form. The application shall be submitted on forms to be provided by the Town Administrative Staff.
 - ii. Plans and specifications. Each application for conditional use approval shall be accompanied by an accurate site plan drawn to scale showing: the actual shape, dimensions and size of the lot to be built upon, the size, shape, height, floor area and location of the buildings to be erected; dimensions and locations of existing buildings; width of front, side and rear yards; existing and proposed parking; ingress to and egress from the site; and such other information as may reasonably be requested to determine compliance with these zoning regulations including but not limited to a landscaping plan, erosion control plan, stormwater management plan, and utilities plan.
 - iii. State and Federal permits. Written evidence of applications for all required permits showing compliance with regulations of the Corps of Engineers, Alabama Department of Environmental Management, Alabama Coastal Area Management Program and Baldwin County Health Department shall accompany the application for conditional use approval, and the conditional use may be conditioned upon the actual receipt of said permits by the applicant.
 - iv. Application fee. The applicant for a conditional use shall be required to pay an application fee according to the current schedule of fees established by the Magnolia Springs Town Council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.
- d. Standards for approval. A conditional use may be approved by the Planning and Zoning Commission only upon determination that the application and evidence presented clearly indicate that all of the following standards have been met:

- i. The proposed use shall be in harmony with the general purpose, goals, objectives and standards of the Magnolia Springs Comprehensive Plan, these regulations, or any other official plan, program, map or regulation of Magnolia Springs.
 - ii. The proposed use shall be consistent with the community welfare and not detract from the public's convenience at the specific location.
 - iii. The proposed use shall not unduly decrease the value of neighboring property.
 - iv. The use shall be compatible with the surrounding area and not impose an excessive burden or have substantial negative impact on surrounding or adjacent uses or on community facilities or services.
 - e. Conditions and restrictions on approval. In approving a conditional use, the Planning and Zoning Commission may impose conditions and restrictions upon the property benefited by the conditional use approval as may be necessary to comply with the standards set out above, to reduce or minimize any potentially injurious effect of such conditional use upon the property in the neighborhood, and to carry out the general purpose and intent of the regulations. In approving any conditional use, the Planning and Zoning Commission may specify the period of time for which such approval is valid for the commencement of the proposed conditional use. The Planning and Zoning Commission may, upon written request, grant extensions to such time allotments not exceeding 6 months each without notice or hearing. Failure to comply with any such condition or restriction imposed by the Planning and Zoning Commission shall constitute a violation of these regulations. Those conditional uses which the Planning and Zoning Commission approves subject to conditions, shall have specified by the Planning and Zoning Commission the time allotted to satisfy such conditions.
4. **Annexation Requests:** There are three procedures to establish zoning on property being annexed into the Town:
- a. Property that is requested to be annexed into the limits of the Town is automatically designated as ER – Single Family Estate District.
 - b. An owner has the ability to request that another zoning designation be placed upon the property with the annexation process. This process is annexation contingent on zoning and requires a completed rezoning application, a public hearing at the Planning Commission, and a public hearing and final determination made by the Town Council.
 - c. In accordance with Act 2209-629 of the State of Alabama the Town of Magnolia Springs may pre-zone territory proposed for annexation into the town limits. All requirements of zoning notice prescribed in this ordinance and State Law shall be met. The zoning shall become effective upon the date the territory is annexed into the town limits, or upon the date the zoning process is completed, whichever is later. Additionally any pre-zoning established for territory proposed for annexation shall be null and void as to any portion of the territory that is not

annexed into the town limits within 180 days of the initiation of annexation proceedings.

5. Applications to the Board of Adjustment:

a. Application Types

- i. Appeals of Administrative Orders: Appeals may be made by any person aggrieved by any decision of any administrative officer representing the Town in an official capacity in the enforcement of these zoning regulations. The appeal must be made within 30 days of the decision by making an application that specifies the basis of the appeal. An appeal stays all proceedings in furtherance of the action appealed from unless the officer certifies to the Board of Adjustment a stay would in his opinion cause imminent peril to life or property.
- ii. Special Exceptions: The Board of Adjustment may, under the prescribed standards and procedures contained in the Zoning Ordinance, authorize construction or a land use that is expressly permitted as a special exception in a particular zoning district. However, the Board of Adjustment reserves full authority to deny any request for a special exception, to impose conditions on the use, or to revoke approval at any time, upon finding that the permitted use will be or has become unsuitable and incompatible in its location as a result of any nuisance or activity generated by the use.
- iii. Variances: The Board of Adjustment is empowered to authorize upon application in specific cases a variance from the terms of these zoning regulations that it determines is not contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these zoning regulations will result in unnecessary hardship and so that the spirit of these zoning regulations is observed and substantial justice done; provided, however, that the foregoing provisions shall not authorize the Board of Adjustment to approve a use or structure in a zoning district restricted against such use or structure.

b. Hearings and Procedures:

- i. All applications must be submitted to the Town Staff at least 15 calendar days prior to meeting date. The Staff shall, upon determination that the application is complete, receive the application and schedule it for public hearing. All applications are to be heard as public hearings before the Board.
- ii. All applications shall be made of forms provided by the Town.
- iii. Public Notice: All application types to the Board require public hearings with public notice being provided as follows:
- iv. Before acting on any proposed application, a public hearing shall be held by the Board of Adjustment with proper legal notice posted at least 15 calendar days prior to the hearing.
- v. Notice shall also be provided by certified mail to all adjacent property owners as they appear in the County tax records. The notice must be mailed at least 5 calendar days prior to the public hearing.
- vi. A sign provided by the Town, indicating the application, shall be posted on the subject property, adjacent to all public right of ways no less than

- 21 calendar days prior to the date of the hearing. The case number and contact information shall be listed.
- vii. A notice shall be posted in at least 3 separate and publicly accessible locations in the Town. Posting in these locations shall be made a least 15 calendar days prior to the public hearings.
 - viii. All public notices, with the exception of the sign posted on the subject property, shall provide at a minimum the following information:
 - a) property owner
 - b) current zoning
 - c) brief description of the request and a location map
 - d) that the application is available for public inspection at Town Hall.
- c. Standards for Approval
- i. Special Exceptions: A special exception may be approved by the Board of Adjustment only upon determination that the application and evidence presented clearly indicate that all of the following standards have been met:
 - a) The proposed use shall be in harmony with the general purpose, goals, objectives and standards of the Magnolia Springs Comprehensive Plan, these regulations, or any other official planning document of the Town.
 - b) The proposed use shall be consistent with the community welfare and not detract from the public's convenience at the specific location.
 - c) The proposed use shall not unduly decrease the value of neighboring property.
 - d) The use shall be compatible with the surrounding area and not impose an excessive burden or have substantial negative impact on surrounding or adjacent uses or on community facilities or services.
 - ii. Variances: A variance may be authorized based upon the existence of the following conditions:
 - a) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.
 - b) Exceptional topographic conditions or other extraordinary situation or condition of a specific piece of property.
 - c) Unique environmental characteristics such as heritage trees, wetlands, or similar natural features.
 - d) That the granting of the request is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss or gain.
 - e) That the granting of the application will not impair an adequate supply of light and air to adjacent property.
 - f) Any owner of record of real property upon the date of the adoption by the Town of Magnolia Springs of the zoning regulations shall automatically obtain a variance, if needed, for a single family dwelling (notwithstanding the type of dwelling to be placed or constructed on the property).

- d. Limitations of Approval
 - i. Special Exception: An approved special exception runs with the property as long as the approved use operates in conformity with the approval issued by the Board. It may transfer with ownership of the use.
 - ii. Variances: Variances run with the land indefinitely.

- e. Decisions of the Board of Adjustment:
 - i. Empowerment: In exercising its authority in all decisions, the Board of Adjustment may reverse or affirm, wholly or partly, or modify any orders or requirements of the zoning ordinance.
 - ii. Conditions: In approving any application, the Board of Adjustment may impose conditions and restrictions upon the property benefited as may be necessary to comply with the standards set out above, to reduce or minimize any potentially injurious effect of such the approval upon the property in the neighborhood, and to carry out the general purpose and intent of the regulations. The conditions may or may not be agreed to by the applicant / owner. If the conditions are not met and maintained the approval of the Board becomes null and void.
 - iii. Voting: In all cases the concurring vote of 4 members of the Board of Adjustment shall be necessary to approve an application.
 - iv. Appeal from Decision of the Board of Adjustment: Any party aggrieved by a final judgment or decision of the Board of Adjustment may, within 15 days thereafter, appeal the final judgment to the Circuit Court of Baldwin County, Alabama, by filing with the Circuit Court and the Board of Adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken. In case of such appeal, the Board of Adjustment shall cause a transcript of the proceedings and the action to be certified to the Court where the appeal is taken, and the action of such court shall be tried again.

C. Permits and Certificates

1. Administration:

- a. Authority: The duty of administering all permits including but not limited to, Land Use Certificates, Building Permits, and Certificates of Occupancy is hereby conferred upon the Town Administrative Staff or it's designee.
- b. Empowerment: The Town Staff is authorized and empowered to administer and enforce the provisions of these zoning regulations to include receiving applications, inspecting sites, and issuing Land Use Certificates for projects, uses, and structures which are in conformance with the provisions of these zoning regulations.
- c. Records Required: The Town Staff shall keep records of all permits, certificates issued, and maps, plats, and other documents with notations of all special conditions involved. The Town Staff shall file and safely keep copies of all sketches and plans submitted, and the same shall form a part of the records of its office and shall be made public record.

2. **Land Use Certificates:** A land use certificate shall be obtained from the Town Staff prior to the commencement of development and issuance of any building permit, including electrical, HVAC and plumbing permits.
 - a. Application procedure. Upon meeting applicable submission requirements, the Town Staff shall receive for review the application for a land use certificate.
 - b. The Town Staff shall circulate the application to the Building Official, County Engineer, and others, as appropriate, for review and comment.
 - c. The land use certificate shall be issued or denied within seven working days otherwise it shall be deemed to be approved. If the certificate is denied the reasons for denial must be provided to the applicant in writing.
 - d. Application submission
 - i. Application form: The land use certificate shall be on a form provided by the Town Administrative Staff.
 - ii. Plans and specifications: Each application for a land use certificate shall be accompanied by an accurate site plan drawn to scale showing: the actual shape, dimensions and size of the lot to be built upon, the size, shape, height, floor area and location of the buildings to be erected; dimensions and locations of existing buildings; width of front, side and rear yards; existing and proposed parking; ingress to and egress from the site; and such other information as may be reasonably requested to determine compliance with these zoning regulations including but not limited to a landscaping plan, erosion control plan, stormwater management plan, and utilities plan.
 - iii. State and Federal permits: Written evidence of applications for all required permits showing compliance with regulations of the Corps of Engineers, Alabama Department of Environmental Management, Alabama Coastal Area Management Program and Baldwin County Health Department shall accompany the application for a land use certificate, and the land use certificate if required will be conditioned upon the actual receipt of said permits by the applicant.
 - iv. Application fee: The applicant for a land use certificate shall be required to pay an application fee according to the current schedule of fees established by the Magnolia Springs Town Council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.
 - e. Conditions and restrictions on approval: A land use certificate shall be valid for the issuance of a building permit for 180 days after issuance. After that time a new land use certificate must be obtained.
 - f. Revocation of land use certificate: The staff or Town Council may revoke a land use certificate issued in a case where there has been a false statement or misrepresentation in the application or on the site plan for which the Certificate was issued or if after a documented warning has been issued the applicant has failed to comply with the requirements of these zoning regulations. Revocation of the land use certificate shall also cause suspension of the building permit until

such time as in the judgment of the Town Staff the applicant is in compliance with the requirements of these zoning regulations.

- g. **Right of appeal:** The applicant may appeal the denial of the land use certificate to the Board of Adjustments in writing within twenty (20) calendar days after the rejection of the application.
3. **Building Permits:** It shall be unlawful to commence the excavation for or the construction of any building or other structures, including accessory structures, or to store building materials or erect temporary field offices, or to commence the moving, alteration, or repair of any structure, including accessory structures, until the Building Official or Town Staff has issued a permit for such work including a statement that the plans, specifications and intended use of such structure in all respects conform with the provisions of these zoning regulations. Applications for Building Permits, including electrical, HVAC and plumbing permits shall be made to the Building Official on forms provided for that purpose
 4. **Historic District:** Properties that are located within the Magnolia Springs Historic District must obtain a certificate of appropriateness prior to application for Building Permits or land disturbance.
 5. **Certificate of Occupancy:** No land or building or other structure or part thereof hereafter erected, moved or altered in its use shall be used until the Building Official or Town Staff shall have issued a Certificate of Occupancy stating that such land or structure or part thereof is found to be in conformity with the provisions of these zoning regulations. It shall be the duty of the Building Inspector to make a final inspection thereof, and to issue a Certificate of Occupancy if the building or premises or part thereof is found to conform to the provisions of these zoning regulations or, if such certificate is refused, to state the refusal in writing with the cause.

D. Enforcement

1. **Issuance of Municipal Offense Citation:** When the Town Staff find that a violation of the zoning ordinance is made the staff shall issue a municipal offense citation. The citation shall provide written notice to the owner regarding the offense, what the course of remedy is, and what section(s) of the ordinance are being violated. The citation shall also prescribe a reasonable time frame for the offense to be rectified without penalty.
2. **Penalty:** A person or owner found guilty by a court of appropriate jurisdiction of a violation of the zoning ordinance shall be fined upon conviction, not less than twenty five dollars nor more than two hundred and fifty dollars and court costs for each offense. Each day the offense continues beyond the allowed rectification time may constitute a separate offense.

Article 3

Nonconformities

A. Intent

In the Town, there exist uses, structures and combinations of such which were lawful before the adoption of these regulations and any amendments, but which would be prohibited, regulated or restricted under the terms of this ordinance. It is the intent of this section to permit them to continue with restrictions until they are removed or destroyed, but not to encourage their survival. It is also the intent of these regulations that such nonconformities shall not be enlarged, expanded or intensified, nor shall they be used as grounds for adding other structures. Changes in nonconformities other than their discontinuance shall be discouraged.

B. Rules Applicable to Nonconformities

1. **Incompatibility and enlargement:** Nonconforming uses are declared by these regulations to be incompatible with permitted uses within the districts involved. A nonconforming use of a structure or a nonconforming use of a structure and land or water in combination, shall not be extended, enlarged or intensified except in conformance with these regulations. No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendments of the zoning regulations. Replacement of nonconforming structures shall be prohibited.
2. **Work in progress:** To avoid undue hardship, nothing in these regulations shall require a change in plans, construction or designed use of buildings on which a building permit has been properly issued prior to the adoption of these regulations and any amendments. If actual construction has not begun under a permit properly issued before the adoption of these regulations or amendments thereto, within six (6) months of the date of issuance of the permit, the permit shall become invalid and shall not be renewed except in conformity with the regulations.
3. **Nonconforming use of open land:** Where open land is being used for a nonconforming use, the nonconforming use shall not be extended or enlarged either on the same or adjoining property.
4. **Nonconforming use of buildings:** Except as otherwise provided herein, the lawful use of a building existing at the effective date of these regulations and any amendments may be continued.

5. **Discontinuance of nonconforming use:** No building or portion thereof, used in whole or in part, for a nonconforming use which is abandoned for more than one (1) calendar year or 365 consecutive days, shall be used except in conformity with these regulations. The intent to abandon shall be presumed from the cessation of business or the removal of equipment, goods, structures or other aspects of such nonconforming use of the property.

6. **Destruction, repair or alteration of nonconforming use, structure, and signage**
 - a. No building, structure, or signage which has been damaged, repaired or altered by any means to an extent of more than fifty percent (50%) of the fair market value of the building, structure, or signage immediately prior to damage, repair or alteration, shall be restored except in conformance with these regulations, and all rights as a nonconforming use or structure are then terminated.

 - b. If a building is damaged, repaired or altered by less than fifty percent (50%), such damage may be repaired to the size and use as before the time of damage, repair or alteration provided that such repair or reconstruction is complete within one (1) calendar year or 365 consecutive days of the date of such damage.

 - c. Historic nonconforming structures or a nonconforming portion of an historic structure over 50 years old may be considered a valid nonconforming structure upon the determination of the Magnolia Springs Historic Commission that the structure is historic in nature and the respective Board of Adjustment confirms the valid nonconforming status. A valid nonconforming status shall permit reconstruction, repair, or alteration irrespective of the fifty percent (50%) rule.

 - d. Upon the determination by the Town Council or its designee that a building, structure, or signage is potentially damaged, being repaired or altered by more than fifty percent (50%) of the fair market value, the following method shall be employed to make a final determination:
 - i. An appraisal by a licensed appraiser shall be submitted to the Town Administrative Staff.
 - ii. A licensed contractor shall perform a detailed cost estimate for repairs to the building, structure, or signage and submit it to the Town Administrative Staff.
 - iii. The Town Administrative Staff shall prepare a report with the appraisal and cost estimate and submit it to the Planning Commission for a final determination.
 - iv. The Planning Commission shall make a determination or may request additional information as deemed appropriate to make a final determination.
 - v. Nothing herein shall be construed to excuse any owner, occupant or contractor from compliance with building codes, zoning regulations or any other health or safety requirements imposed by local, state or federal laws, or regulations in effect at the time of the repair or rebuilding.
 - vi. The applicant shall be responsible for all costs associated with a determination.

7. **Nonconforming lots:** A nonconforming lot or parcel is a lot or parcel which fails to meet the dimensional requirements (i.e. minimum lot area, width, frontage etc.) of the zoning regulations, but was lawfully created according to Alabama State Law and was a

lot of record prior to the effective date of the zoning regulations or any amendments thereto and has been determined to be vested.

- a. Any nonconforming lot or parcel may be used as a building site.
 - b. A nonconforming lot or parcel must comply with permitted uses and dimensional standards as described in the zoning regulations.
8. **Subdivision of lots:** No portion of a lot shall be sold or subdivided in a manner which does not comply with the lot width and area requirements established by the zoning regulations. A nonconforming lot may be increased in size even if such increase does not allow the lot to meet the minimum lot width and lot area requirements established by the zoning regulations. Furthermore, the adjoining lot or lots, from which the land is removed to create the increase to the subject lot, shall not become nonconforming or increase in nonconformity.
9. **Repairs and maintenance:** On any nonconforming structure or portion of a nonconforming structure or any structure containing a nonconforming use, work may be done on ordinary repairs, only to replace or repair, provided that the size of the structure shall not be increased. Ordinary repairs may include painting, roofing, siding, re-paving of access roads and parking/loading areas, replacement of landscape elements and other like activities.
10. **Nonconforming structures unsafe due to lack of maintenance:** Any portion of a nonconforming structure that becomes physically unsafe due to lack of repairs and maintenance, and is declared unsafe by a duly authorized Town official, but which the owner wishes to repair, restore or rebuild, must be repaired, restored or rebuilt in conformance with the provisions of this chapter.
11. **Nonconforming accessory uses and structures.**
- a. No nonconforming accessory use or structure shall not continue after the principal use or structure is terminated by abandonment, damage or destruction unless the accessory use or accessory structure is made to conform to the standards for the zoning district in which it is located.
 - b. Any nonconforming accessory use or accessory structure shall be brought into conformity with these regulations whenever a substantial improvement to, addition to or change in principal use or structure on the property is proposed or approved.
 - c. Any part of a nonconforming accessory use or accessory structure which is destroyed to an extent of more than fifty percent (50%) of the fair market value of the building or structure immediately prior to damage, shall not be restored except in conformity with these regulations, and all rights as a nonconforming use or structure are then terminated.

Article 4

Zoning Districts

A. Purpose and Intent

The following zoning districts are established in accordance with the Code of Alabama 1975 as amended, this zoning ordinance and, the health, safety, and general welfare of the citizens of the Town of Magnolia Springs; all of which are in conformance with the Comprehensive Plan.

The following zoning districts are hereby established for the Town of Magnolia Springs:

1. **RA - Rural Agricultural District:** This zoning district provides for large, open, unsubdivided land that is vacant or is being used for agricultural, forest or other rural purposes.
2. **ER - Single Family Estate District:** This zoning district is provided to allow a very low density residential environment consisting of single family homes on estate size lots.
3. **R-1(a) - Single Family District:** This zoning district is provided to allow a low density residential environment consisting of single family homes on large individual lots.
4. **R-1(b) - Single Family District:** This zoning district is provided to allow a low density residential environment consisting of single family homes on large individual lots.
5. **R-2(a) - Single Family District:** This zoning district is provided to allow a moderate density residential environment consisting of single family homes on individual lots.
6. **R-2(b) - Single Family District:** This zoning district is provided to allow a moderate density residential environment consisting of single family homes on individual lots.
7. **B-1 - Professional Business District:** The B-1, Professional Business District, is intended to allow a concentration of office type buildings and land uses that are most compatible with, and located near, residential areas. Most B-1 districts will be placed in close proximity to residential areas, and therefore serve as a transitional zoning district between residential areas and higher intensity commercial zoning districts.
8. **B-2 - Local Business District:** The purpose and intent of the B-2 Neighborhood Business District is to provide limited commercial convenience facilities servicing nearby residential neighborhoods.

B. Permitted Use Table

Table 4.1 is intended to display the permitted use characteristics of each of the districts for the Town. It is not intended to be an exhaustive index of all existing and future land uses. Within each zoning district the table indicates P= Permitted, SE = Special Exceptions, AC= Allowed with Conditions, CU= Conditional Use, or if the cell is blank the use is not permitted, * see note at bottom of chart.

Zoning Districts	RA	ER	R-1(a)	R-1(b)	R-2(a)	R-2(b)	B-1	B-2
<u>Use Categories</u>								
Residential								
Single Family	P	P	P	P	P	P		
Multi-Family								
Mobile Home	*	*	*	*	*	*		
Modular Home	P	P	P	P	P	P		
Manufactured Home	CU	CU	CU	CU	CU	CU		
Home Occupations	AC	AC	AC	AC	AC	AC		
Accessory Uses	AC	AC	AC	AC	AC	AC	AC	AC
Mixed Use							AC	AC
Commercial								
Retail Trade								
General Mercantile							P	P
Drugstore								P
Neighborhood Convenience Store								P
Restaurant								P
Professional Services								
Banks							P	P
Childcare							P	P
Medical Office							P	P
Bed and Breakfast	SE	SE	SE	SE	SE	SE	P	P
Mortuary, Funeral Home							CU	P
Intensive Commercial Activity								
Automotive Repair								CU
Convenience Store with Gas								CU
Marina								

Zoning Districts	RA	ER	R-1(a)	R-1(b)	R-2(a)	R-2(b)	B-1	B-2
Kennel								CU
Farm Implement Sales	P							P
Carwash								P
Lawn Mower Sales Service								P
Liquor Store								CU
Pub, Bar, Tavern								CU
Plumbing Shop								CU
Restaurant Sales and Supply								CU
Personal Storage								CU
Junk or Salvage Yard								
Civic								
Public and Private Schools	CU	CU	CU	CU	CU	CU	P	P
Municipal Facilities	P	P	P	P	P	P	P	P
Public/Private Utilities	P	P	P	P	P	P	P	P
Church/Religious Assembly	SE	SE	SE	SE	SE	SE	P	P
Post Office	SE	SE	SE	SE	SE	SE	P	P
Communication Towers and Facilities								AC
Rural								
Agricultural Related Business Sales i.e. Farmer's Market	P							
Agricultural Uses	P							

P = Permitted

SE = Special Exceptions

CU = Conditional Use

AC= Allowed with Conditions

Blank cell means use is not permitted

*** Note:** For guidance on mobile, manufactured, and modular housing see Article 4, Section I.

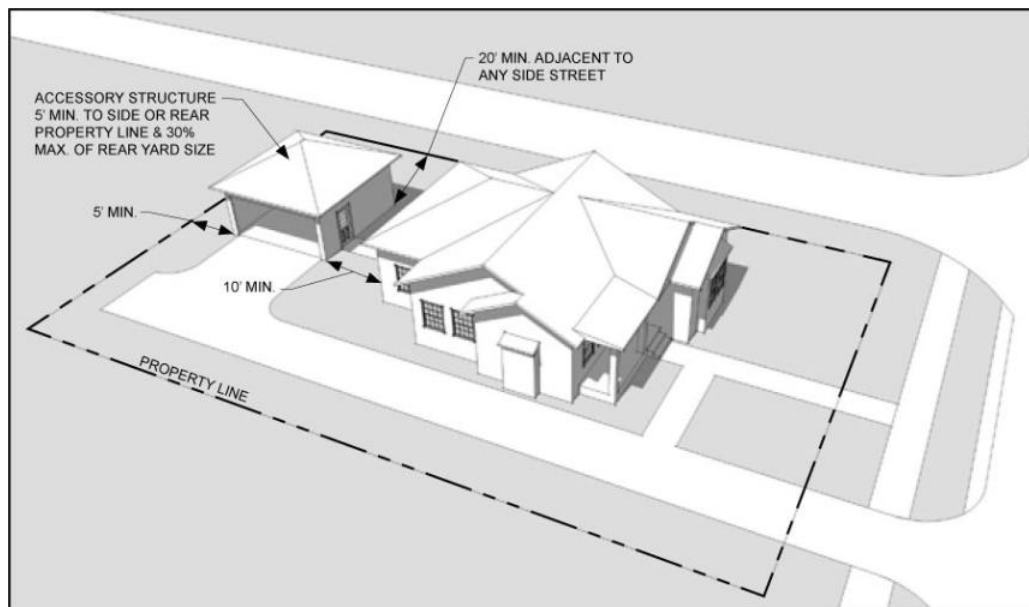
C. Interpretation of Uses not Defined

When a proposed use is not specifically addressed in the use table above the Town Staff shall make a determination of what zoning district is most compatible with the intended use. Should the applicant or owner disagree with the Staff determination the decision may be appealed to the Board of Adjustment for final decision.

D. Accessory Uses and Structures

Any use may be established as an accessory use to any permitted principal use in any district provided that the accessory use:

1. Is customarily incidental to and is maintained and operated as a part of the principal use.
2. Is not hazardous to and does not impair the use or enjoyment of nearby property in greater degree than the principal use with which it is associated.
3. Does not create levels of noise, odors, vibration and lighting, or degrees of traffic congestion, dust or pollutants, in a greater amount than customarily created by principal use.
4. In residential districts an accessory use or structure shall conform to the following requirements:



- a. An accessory structure may be located in a rear or side yard but shall not be closer than 5-feet to any side or rear lot line and no closer than 10 feet to the principal structure.

- b. An accessory structure may not be located in the front yard of a lot, except that on waterfront lots accessory structures may be located between the principal building and the waterfront property line but not within the required front yard set-back.
- c. An accessory structure may not exceed the height limit for the district in which it is located, it may not be taller than the principal structure, and may not occupy more than 30% of the rear yard.
- d. No accessory structure, other than a pier and boathouse, may be located on a lot by itself.
- e. Accessory structures, including one accessory dwelling, are permitted by right in residential districts provided they do not exceed 60 % of the size in square feet of the foot print of the principal residence.
- f. Accessory dwellings are limited in use to family members and shall not be rented to non-family members. Occupation, whether short or long term, to non-family members constitutes a conversion of the single family district to a multi-family district, which is strictly prohibited.
- g. All accessory structures in waterfront lots shall meet the front and rear set-backs as required for the primary structure.

E. Home Occupations

Home occupations within residential districts shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling. No home occupation shall be permitted which might interfere with the general welfare of the surrounding residential district due to potential noise, increased pedestrian and vehicular traffic or any other condition which would constitute an objectionable use of residentially zoned property. Limitations on the type of home occupation are as follows:

1. **Floor Area:** The area used for a home occupation shall not exceed 20% of the gross floor area in the principal building.
2. **Location:** The home occupation shall be confined entirely to the principal building or an accessory structure located on the same lot as the principal building.
3. **Products:** No display of products shall be visible from the street.
4. **Employees:** No person outside the family may be employed on the premises.

F. Residential Docks, Piers and Related Structures

The construction of all piers and boathouses shall require a building permit from the Town in conjunction with any other applicable permits. The allowances permitted are as follows:

1. **State and Federal regulations.** All regulations and specifications of the Army Corps of Engineers, ADEM, EPA, and Alabama State Lands relating to the construction of docks, piers, boat slips, decks, boathouses and related structures shall be followed explicitly.
2. **Set-backs.** Piers and related structures including mooring pilings shall be set-back a minimum of 10-feet from the lateral riparian rights line.
3. **Height and width.** In crossing a wetland, the pier or walkway shall not exceed 6-feet in width.
4. **Length.** Piers or related structures should extend as minimally into navigable channels so as not to obstruct any commonly used waterway.
5. **Number of piers.** One pier shall be permitted per lot, provided however, that a second pier shall be permitted on lots with 200-feet or more of water frontage.
6. **Number of boat slips.** A maximum of 3 boat slips shall be permitted per pier.
7. **Number of boathouses and pier decks.** A maximum of one boathouse and one pier deck shall be permitted per pier.
8. **Boathouse area.** Boathouse width is limited to 45% of the shoreline width of the property. Boathouse side set-backs shall conform to projected side set-backs for the lot.
 - a. Lots less than 50 feet of shoreline shall be allowed a boathouse of not more than 600 sq. ft.
 - b. Lots between 50.01 and 75 feet of shoreline shall be allowed a boathouse of not more than 900 sq. ft.
 - c. Lots between 75.01 and 100 feet of shoreline shall be allowed a boathouse of not more than 1,200 sq. ft.
 - d. Lots greater than 100.01 of shoreline shall be allowed a boathouse of not more than 1,600 sq. ft.
9. **Owner's use only:** Boat slips and boathouses shall be for the owner of the property's use only. Rental and leasing is prohibited.
10. **Bulk heading:** Shoreline stabilization should be accomplished by the establishment of appropriate native vegetation found along the Magnolia River or the use of pervious interlocking brick systems, rip rap, filter mats or other similar materials. Should the location and the existing conditions surrounding the shoreline warrant a vertical bulkhead an application shall be made to the Board of Adjustment and considered as a request for a variance. Vertical bulkheads are considered by the Town to be the least preferable method of shoreline stabilization.

G. Yard Sales:

1. Yard sales are permitted in all zoning districts.
2. Yard sale regulations are applicable in all districts.
3. All yard sales require a permit from the Town and require a fee in accordance with the latest fee schedule approved by the Town Council
4. Yard sales are limited to two per year per address.
5. Yard sales are limited to 72 consecutive hours in duration and all evidence of the sale shall be removed at the end of duration.
6. Yard sales shall be operated by the owner and located on the owner's property.

H. Mixed Use:

Mixed residential and commercial uses may be permissible subject to the following conditions:

1. Is located in the (B-1) commercial professional and business office district, (B-2) local business commercial district.
2. The commercial uses in the development may be limited in hours of operation, size of delivery trucks, and type of equipment;
3. The residential uses shall be designed so that they are compatible with the commercial uses;
4. Residential and commercial uses shall not occupy the same floor of a building;
5. Residential and commercial uses shall not share the same entrances;
6. The number of residential dwelling units is limited to 4 dwelling units per acre;
7. Building height shall not exceed 2 stories;
8. If the project is not in the HOD or Springs District the mixed commercial/residential structure shall be designed to enhance compatibility of the commercial and residential uses by, but not limited to, minimizing noise associated with commercial uses; directing commercial lighting away from residential units; and separating pedestrian / vehicular access ways and parking areas from residential units, and;
9. The project shall comply with all dimensional standards of the zoning district
10. All lighting, landscaping, and parking requirements required shall be met.

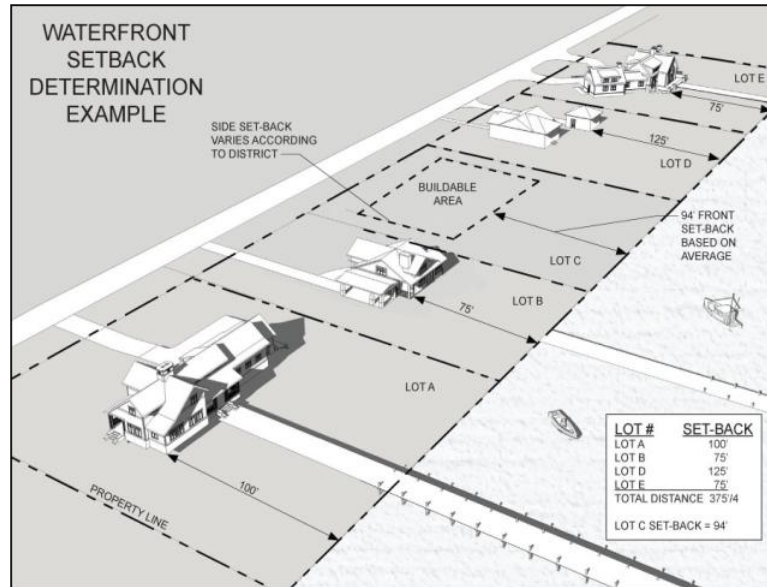
11. If a proposed mixed use project is located in the HOD or the Springs District it shall follow the site plan requirements as required by these districts prior to the issuance of any Building Permits.
12. If a proposed mixed use project is located outside of the HOD or Springs District the project is still required to follow the requirements and procedures including Planning Commission review required in the Springs District prior to the issuance of a building permit.

I. Mobile, Manufactured, and Modular Homes:

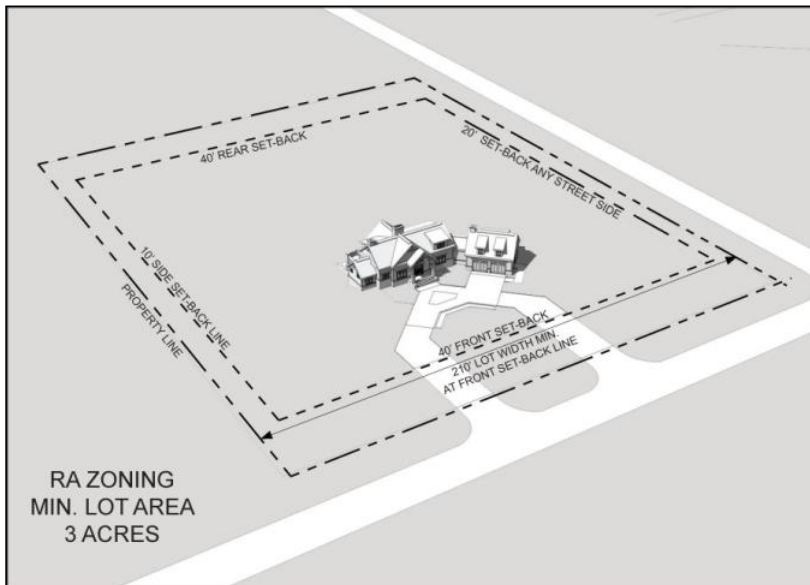
1. Mobile Homes are expressly prohibited.
2. Manufactured Homes are permitted, as approved, only as a Conditional Use (CU) by the Planning Commission. This will require the appropriate applications and approvals from the Town in accordance with the Conditional Use (CU) process.
3. Modular homes are permitted in all residential districts.
4. Review Standards: A request for a manufactured home will be reviewed by the Planning Commission and must include the following items in the submission package:
 - a. Skirting
 - b. Landscaping
 - c. Plot plan that is dimensioned showing the structure(s) on the lot
 - d. Drive and parking areas that specify finish materials i.e. gravel, asphalt etc.
 - e. Entry to the structure i.e. plain elevated stairs, porch, stoop etc.
 - f. Other items as requested by Staff that are unique to the project such as but not limited to existing trees, tree preservation, fences, screening and building height of the structure etc.

J. Dimensional Standards:

1. Waterfront Lots: The front of a waterfront lot is the portion that has a physical connection to the water. All set-backs and lot width requirements shall be determined based on this standard.

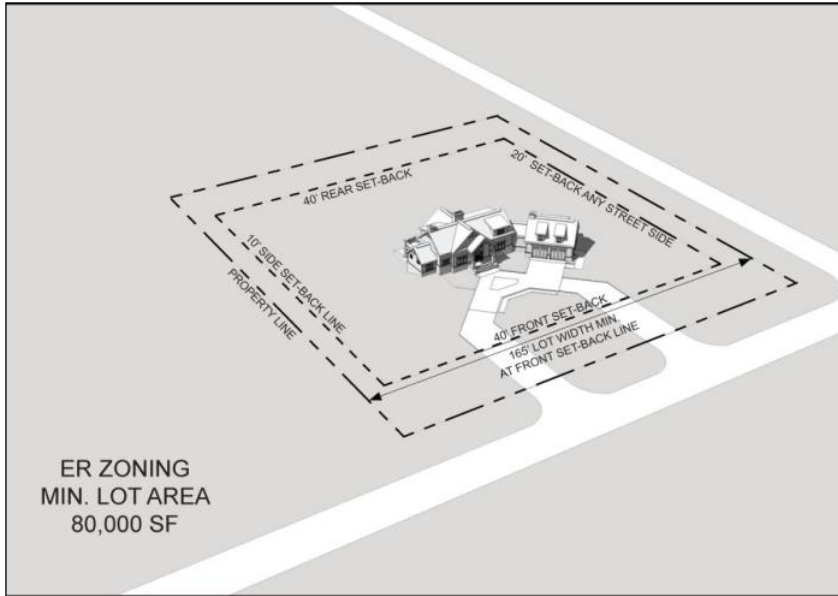


- a. The front yard set-back shall be the average set-back that is established by neighboring properties within 200 feet of each side of the property lines.
 - b. The minimum lot width at the street shall be the same as the minimum lot width at the front (water) side for each zoning district.
2. Minimum set-backs for the established zoning districts shall be as follows:



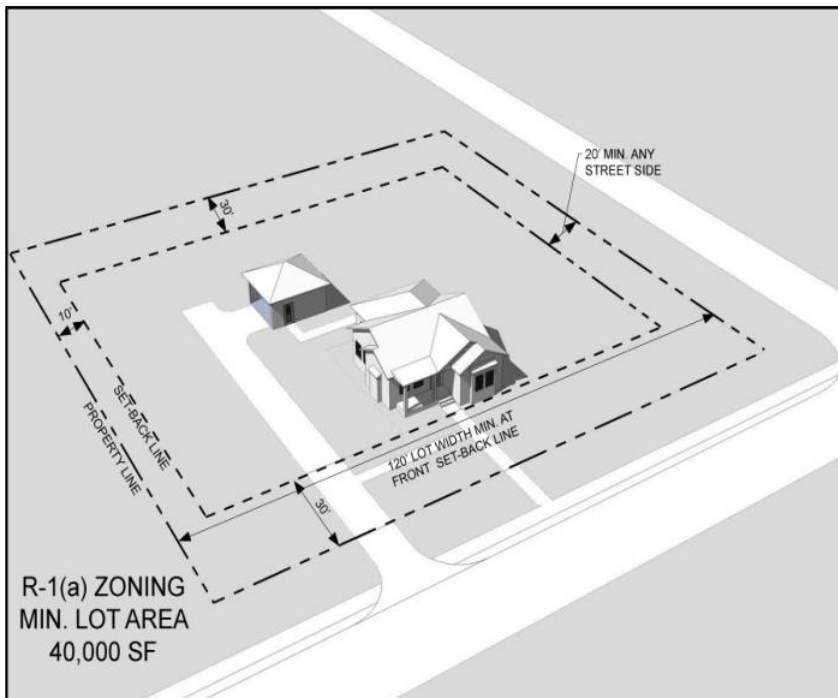
Rural Agricultural

Lot Sq. Ft.	3 acres
Lot Width	210 feet
Front	40 feet
Side	10 feet
Street Side	20 feet
Rear	40 feet
Height limit	35 feet



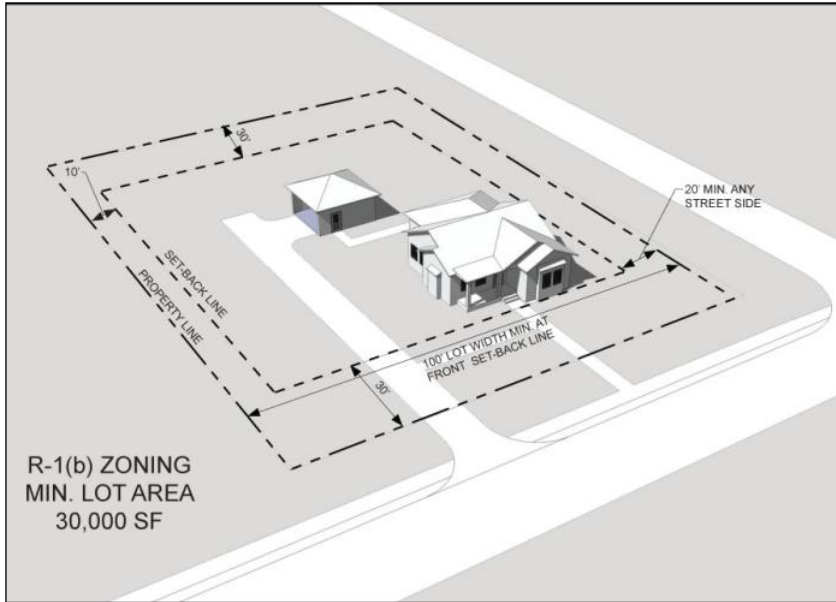
Estate Residential

Lot Sq. Ft.	80,000 SF
Lot Width	165 feet
Front	40 feet
Side	10 feet
Street Side	20 feet
Rear	40 feet
Height limit	35 feet



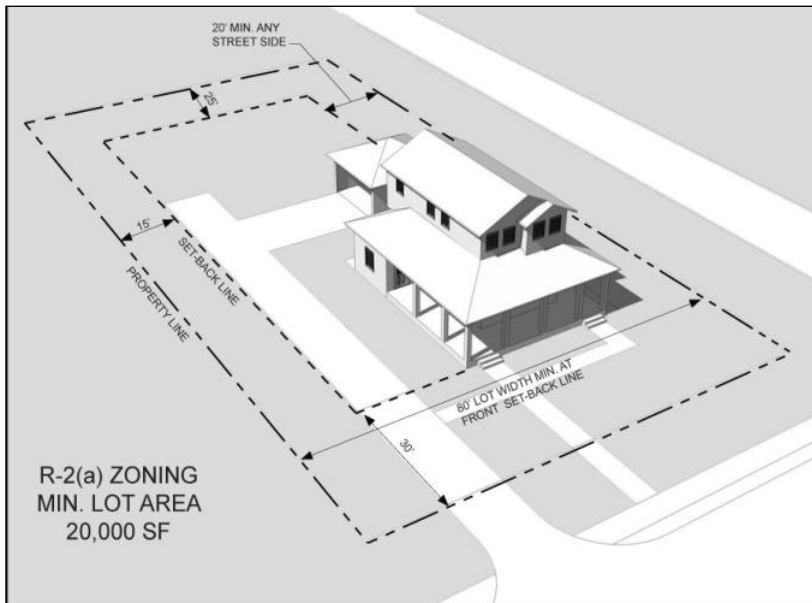
Low Density Residential

Lot Sq. Ft.	40,000 SF
Lot Width	120 feet
Front	30 feet
Side	10 feet
Street Side	20 feet
Rear	30 feet
Height limit	35 feet



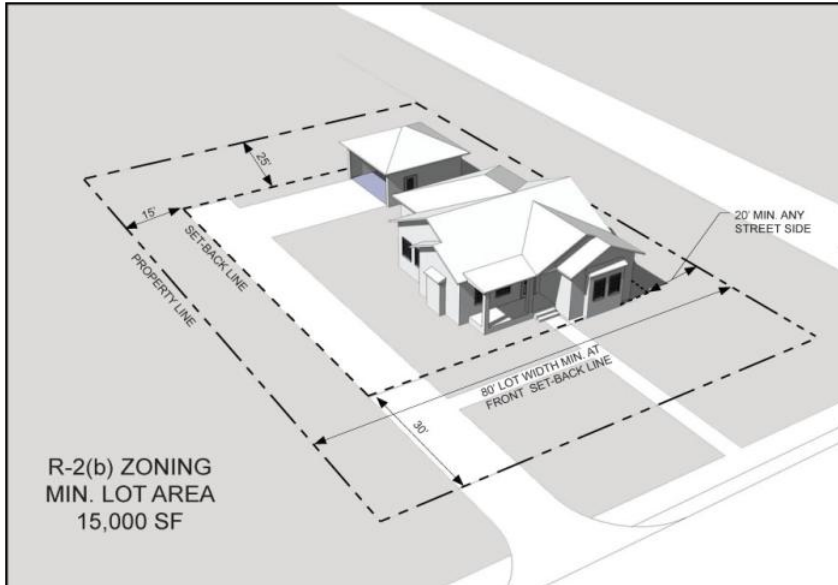
Low Density Residential

Lot Sq. Ft.	30,000 SF
Lot Width	100 feet
Front	30 feet
Side	10 feet
Street Side	20 feet
Rear	30 feet
Height limit	35 feet



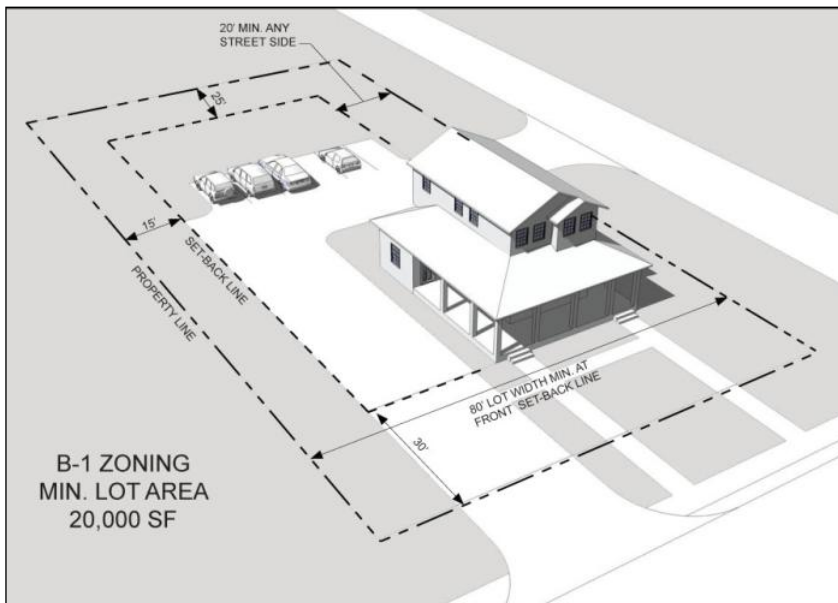
Moderate Density Residential

Lot Sq. Ft.	20,000 SF
Lot Width	80 feet
Front	30 feet
Side	15 feet
Street Side	20 feet
Rear	25 feet
Height limit	35 feet



Moderate Density Residential

Lot Sq. Ft.	15,000 SF
Lot Width	80 feet
Front	30 feet
Side	15 feet
Street Side	20 feet
Rear	25 feet
Height limit	35 feet



Professional Business

Lot Sq. Ft.	20,000 SF
Lot Width	80 feet
Front	30 feet
Side	15 feet
Street Side	20 feet
Rear	25 feet
Height limit	35 feet

Article 5

Special Districts

A. US Highway 98 Overlay District (HOD):

1. **Intent:** U.S. Highway 98 is a major visual corridor in and through the Town of Magnolia Springs, Alabama. The Town desires to create a corridor that is responsive to the unique circumstances, issues and challenges created by having a U.S. Highway bi-sect the community. Therefore, the standards below are designed to create a viable and design based corridor that promotes health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements of the Town of Magnolia Springs, Alabama. Additionally the requirements are created with reasonable consideration, among other things, of the character of the district and its suitability for particular uses and a desire to conserve the value of buildings and encourage the most appropriate use of land throughout the town.
2. **Location and Description:** The Highway 98 overlay zone shall apply to any portion and all land that falls within the following boundaries:
 - a. All property that is or will be zoned “B-1” or “B-2” that is being utilized for commercial purposes, and lies within the area as shown on exhibit “A”.
 - b. In case of interpretation issues, the map governs.
3. **Uses:** All uses permitted in the underlying B1 or B2 zone are allowed in the overlay zone, however, Automotive Service Stations with fuel are a special exception that requires approval.
4. **Set-backs:** All structures shall adhere to all applicable set-backs including the Highway set-back requirements established by Act No. 94-572 adopted by the State of Alabama.
 - a. **Front Set-back:** Shall meet underlying district requirements. Buildings shall not be set back to the property line by more than 100’ for property line.
 - b. **Side Set-backs:** Set-backs shall meet the underlying zoning district requirements; however the Planning Commission may grant exceptions to this requirement to encourage side and rear parking. The Planning Commission may allow side set-backs up to 5’ for any site design that could not otherwise provide front or rear parking, and may allow side set-backs to be 0’ provided any attached or abutting

buildings include party walls, and the adjacent property owner consents to such set-back. Rear Set-backs: Shall meet underlying district requirements.

5. **Architectural Requirements:** No metal or vinyl siding material is permitted. Metal frame buildings are permitted but shall have a veneer of brick, stucco, wood fiber concrete, or some combination of those building materials. Vinyl and aluminum are particularly excluded as a dominant material. There must be at minimum of one building articulation along any exterior wall beyond 50 linear feet, and a minimum of 2 for any wall beyond 100 linear feet, so that there is not a long flat wall, with no articulation. Articulation emphasizes the distinct parts of a building. Joints in elements of the façade are used to break down the scale of larger buildings into smaller component parts which, when viewed collectively create part of a uniform design for the larger building. Offsets in the façade, bays, ornamental pilasters and/or columns are techniques for emphasizing the joints in the facades.
6. **Traffic:** Lots shall not have more than one curb cut unless otherwise approved by the Planning Commission.
7. **Pedestrian / Bicycle Movements / Sidewalks:** Each site shall provide suitable bicycle parking and appropriate racks. Sidewalks with a minimum width of 5 feet are required both as a means to provide connections to and from the building and along the public Right-of-Way (ROW). It is preferred that sidewalks adjacent to the ROW meander through the required front landscaping as required in the buffer and landscaping zone. Sidewalks that are directly parallel to the ROW shall not be permitted in normal circumstances unless the Planning Commission finds an unnecessary hardship or a particular natural resource that is protected, such as a tree or other natural feature. A direct and identifiable pedestrian connection to the sidewalk is required.
8. **Landscaping:** Landscaping is required in the HOD District in accordance with the requirements as stated in Article 6.
9. **Signage:** Each property is entitled to signage. The maximum total square footage shall be 48 square feet with a maximum of 32 square feet for any single sign. This signage allowance includes both building and roadway signage. No more than 1/3 of the front width of the building shall count toward the building signage allowance. For example, a 30 foot wide building would be permitted 10 square feet of signage. Therefore, in this instance, the balance is 38 square feet, so the maximum of 32 square feet would be allowed on the roadway. Roadway signage must be a “monument” type sign and, be no higher than 5 feet tall measured from the natural ground to the tallest point of the signage. No signage may be self-illuminated. Signage may be installed in the required buffer and landscaping zones. Addresses must be on the building not to exceed 3 square feet.
10. **Parking:** The parking and loading requirements of the Town shall be met. Loading docks shall not be visible from any public ROW. No more than 1 bay of parking shall be permitted at the front of any building adjacent to the ROW. A bay of parking is considered to be 2 row(s) of parking space(s) and maneuvering area(s). Parking lot landscaping requirements shall be met. Curb and gutter shall be required where appropriate; however, the Planning Commission may approve other environmentally sensitive and appropriate materials and/or designs.
11. **Drainage:** The requirements of the zoning ordinance shall be met.

12. **Lighting:**

- a. **Lighting Plan:** A lighting plan shall be submitted with each project. Lighting poles shall not exceed 18' tall from the ground to the highest point of the pole. They should meet or exceed the 110mph-1994 AASHTO standard, and meet night sky requirements, and no more than 5 foot candles are permitted at the property lines. Unless otherwise approved, they must be painted or finished black. No wooden poles shall be allowed.
- b. **Light Standard:** The preferred parking lot light standard is the Visionaire Lighting Monterey Model Mon-1, type 2 or Mon-2, type 2. Lighting standards shall be arm-mounted. If developers utilize these standards, approval will be granted.
- c. **Light Options:** Other lighting standards may be considered. However approval is at the discretion of the Planning Commission and Town Council based on the proposed standard performing equally to or better than the preferred standard in terms of appearance, performance, and maintenance.

13. **Incompatible Use:** If the subject property abuts a residentially zoned parcel of property a buffer zone of 10' is required. This buffer zone shall comply with the requirements of buffer zones in this section. Additionally, an opaque fence not less than 6' in height is required.

14. **Site Plan**

- a. **Package Requirements:** A site plan certified by an American Institute Certified Planner or stamped and sealed by an Alabama licensed architect or engineer shall be presented with the appropriate application and fees to the Town for review and consideration. The site plan package shall at a minimum show the following:
 - i. Property lines
 - ii. Contours
 - iii. Stamped Certified Boundary Survey indicating all protected trees, their species and size
 - iv. Building(s) elevations for every side
 - v. Colored rendering
 - vi. Stormwater management plan stamped and certified as meeting requirements by an Alabama licensed Engineer
 - vii. Utility plans
 - viii. Access points
 - ix. Perspective plan/drawing.
 - x. Landscape Plan stamped by a Landscape Architect
 - xi. Irrigation plan
 - xii. Sign details
 - xiii. Lighting plan, details, and photometrics
 - xiv. Pedestrian, sidewalk and bicycle plan
 - xv. Zoning
 - xvi. Zoning within 300 feet of the adjacent properties
 - xvii. Geometric plan including any outside storage i.e. buggy corrals
 - xviii. Detail of required fencing

- b. Meetings: The applicant is required to meet informally with the Town staff prior to making a formal application. The applicant shall have a sketch plan to be used for the preliminary discussions.
 - c. Approval Required: The site plan shall be approved by the Planning Commission prior to the issuance of any building permit(s).
 - d. Certificate of Conformance: Prior to the issuance of a Certificate of Occupancy there shall be received by the Town a statement of conformance provided by all professionals that certified, or stamped portions of the site plan package originally submitted. This certification shall state that the project was constructed in substantial conformance with the approved plans.
 - e. Building Improvements: All proposed projects that have a value of more than 33% of the value of the building as determined by the Baldwin County Revenue Commission shall meet the requirements in the HOD. This trigger is cumulative over the course of 5 calendar years.
15. **Approval and Denial:** The Planning Commission will make a recommendation to the Town Council for approval, approval with conditions or denial of a site plan. The Town Council can only consider site plans that have a recommendation from the Planning Commission. The Town Council is empowered to approve, approve with conditions or deny any application submitted. Conditions related to approval or denial of the site plan shall be provided in writing to the applicant and shall be based on the impacts to the Town and conformance to the goals and objectives in the Comprehensive Plan. The Planning Commission is also empowered to table a site plan request to allow for further study before making a recommendation to the Town Council. The Town may table the site plan once for no more than 45 days.

B. Magnolia Springs Historic District:

The Town has established a Historic District. This district is not included in the Zoning Ordinance as an additional regulatory district, but merely as a method of communication to citizens and interested parties. Please refer to Ordinance 2009-04 for all germane information and any regulatory requirements.

C. Springs District:

- 1. **Intent:** The core of the Town of Magnolia Springs is its “downtown”. The “downtown” area is historic, environmentally sensitive, and is the focal point of the community. As a result of the Comprehensive Plan it is apparent that special attention is required for the “downtown” area, because of its location, attributes, historical significance, and visibility. In order to further the goals of the Comprehensive Plan the Springs District is intended to address the form that development and redevelopment takes with reasonable consideration given to the character of the district and its suitability for particular uses and building forms. *The Springs District is meant to encourage development and redevelopment in a manner that contributes to the historical character and unique attributes of the core.*

2. **Applicability:** Single Family residences are excluded from the requirements of the Springs District. These requirements apply to mixed use and commercial buildings only.
3. **Location and Description:** The Springs District shall include all property within the following boundaries:



Springs District Description:

NE begin at the centerline intersection of Cedar Street and Old Marlow Road, point also being on the west line of section 28, township 7 south, range 3 east; thence run west along the centerline of said Cedar Street to the intersection of the extension of the west property line of tax parcel no. 05-55-08-28-0-000-068.000; thence run south along the extension of said west property line to the south right-of-way line of Cedar Street; thence run south along the west property line of said tax parcel no. 05-55-08-28-0-000-068.000 and tax parcel no. 05-55-08-28-0-000-069.000 to the north right-of-way line of school street; thence continue south to the south right-of-way line of said school street; thence run east along said south right-of-way line to the northwest corner of tax parcel no. 05-55-08-28-0-000-082.000 thence run south along the west property line of tax parcel no. 05-55-08-28-0-000-082.000 and the west property line of tax parcel no 05-55-08-28-0-000-083.000 to the north right-of way line of rose street; thence continue south to the south right-of-way line of said rose street; thence run west along said south right-of-way line to the northwest corner of tax parcel no. 05-55-08-28-0-000-096.000; thence run south along the west line of said tax parcel no. 05-55-08-28-0-000-096.000 to the southeast corner of tax parcel no. 05-55-08-28-0-000-093.001; thence run west along the north line of said tax parcel no. 05-55-08-28-0-000-093.001 to the east right-of-way line of Holly Street; thence run south along said east right-of-way line to the northeast corner of tax parcel no. 05-55-08-28-0-000-094.000; thence run southeasterly along the east line of said tax parcel no. 05-55-08-28-0-000-094.000 and the east line of tax parcel no. 05-55-08-28-0-000-095.000 to the southeast corner of said tax parcel no. 05-55-08-28-0-000-095.000, said point being along the north line of tax parcel no. 05-55-08-28-0-000-112.000; thence run northeasterly along the north line of said parcel 05-55-08-28-0-000-112.000 and tax parcels 05-55-08-28-0-000-111.000 and 05-55-08-28-0-000-107.000 to the northeast corner of tax parcel no. 05-55-08-28-0-000-107.000 ; thence run southeasterly along the east line of said tax parcel no. 05-55-08-28-0-000-107.000, to the north right-of-way line of Oak Street; thence continue southeasterly to the south right-of-way line of said Oak Street; thence run northeasterly along said south right-of-way line to the northwest corner of tax parcel no. 05-55-08-28-0-000-104.000; thence run southerly along the west line of said tax parcel no. 05-55-08-28-0-000-104.000 to the centerline of Magnolia River; thence run northeasterly along said centerline of Magnolia River to the centerline intersection of Magnolia River and spring branch; thence run northeasterly along the centerline of said spring branch to the west line of section 28, township 7 south, range 3 east; thence run north along said west line of section 28 and the centerline of Marlow Road to the point of beginning.

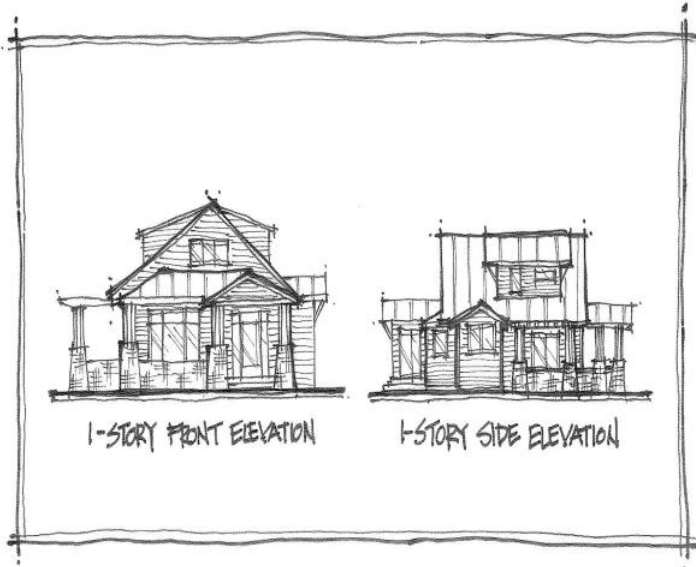
4. **Entitlements:** The Springs District does not affect the zoning of any parcel of property within the boundaries; all property retains its zoning as indicated on the official zoning map of the Town. Any changes to a zoning designation shall be made in accordance with the established procedures contained in this zoning ordinance.
5. **Dimensional Allowances:** Dimensional set-back standards between buildings and property lines and buildings shall be proposed by the applicant and approved by the town during site plan review. Set-backs shall also be determined by the building code based on construction type and any fire suppression systems. Flexibility is important in order to allow creative site and building design.

Commentary:

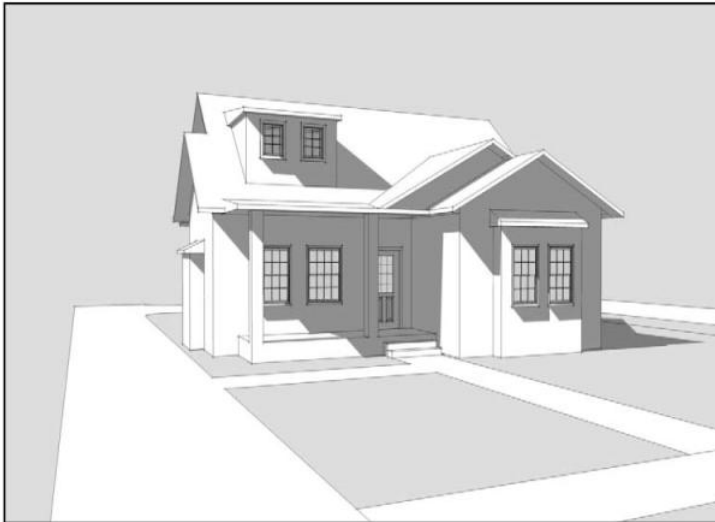
The set-backs proposed for a project should reflect the historical set-backs established by the existing built environment by: the Magnolia Springs Community Hall, the Episcopal Church, other historic structures in the town's core. The purpose of establishing this flexibility is to allow the opportunity to create set-backs for buildings that replicate the historical feel of the core, allow for public space, accommodate pedestrian systems and access points, and to ensure that parking is not the dominant streetscape feature.

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6. **Building Form:**



- a. Building height: One story or 1.5 story buildings are generally preferred in the Springs District. Traditionally one or 1.5 story buildings in Magnolia Springs are elevated from the ground on piers or a floating slab. Building height should not exceed 35 feet from the finished floor.



Commentary:

Building height can impact the pedestrian scale of historic Magnolia Springs and the Springs District. Buildings in Magnolia Springs are traditionally two stories or less.

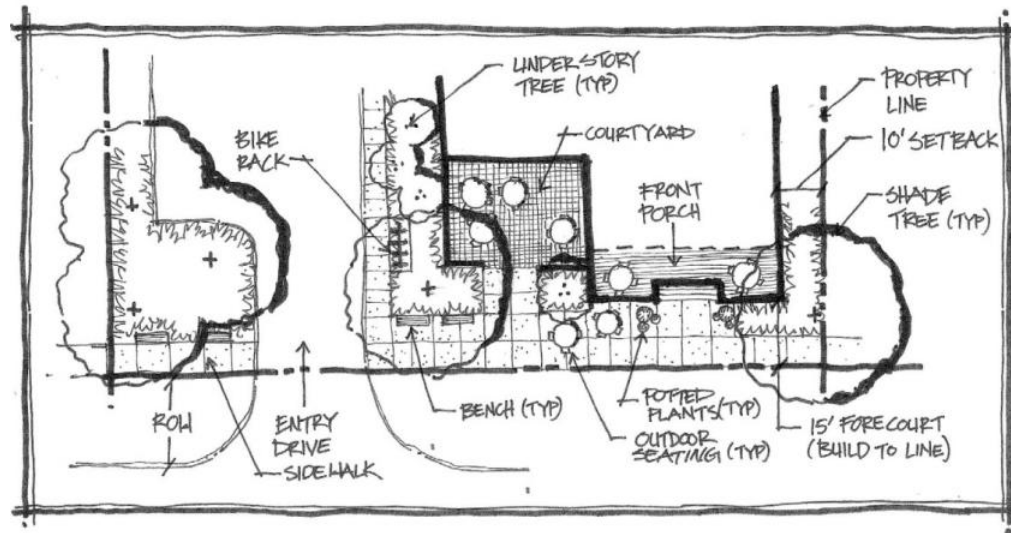


Two story buildings in the Springs District are permitted. However, the buildings must not be rectangular, box like, or flat in shape or appearance. Proposed 2 story buildings shall generally conform to a “wedding cake” style, whereby, the 2nd floor is inset. Outdoor porches and verandas are encouraged on both floors of a 2 story building in order to break up massing and provide architectural interest.



- b. Glazing: Glass windows shall be a dominant, but not the dominant, architectural feature of the 1st floor of any building in the Springs District. The purpose of this requirement is to ensure that buildings are visually appealing and pedestrian friendly. Individual architectural features will be determined as a result of the certificate of appropriateness that is required to be issued by the Historic Commission.
- c. Frontage Types: There are several building frontage types that are encouraged in the Springs District. The preferred frontage type is the forecourt.

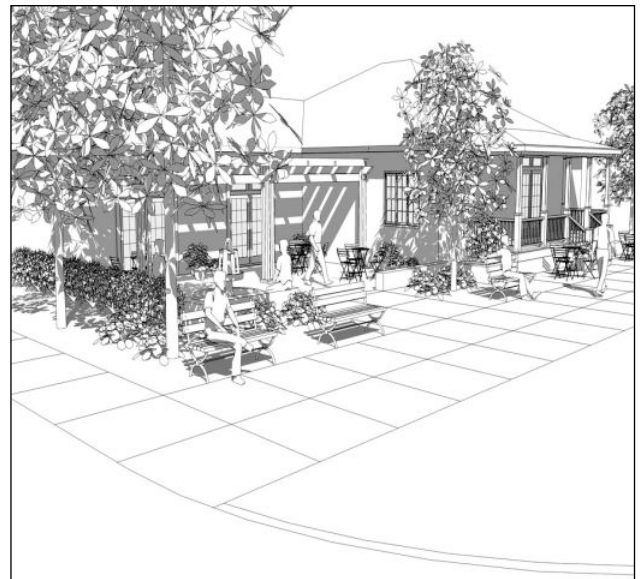
i. Forecourt:



Forecourt Enlargement

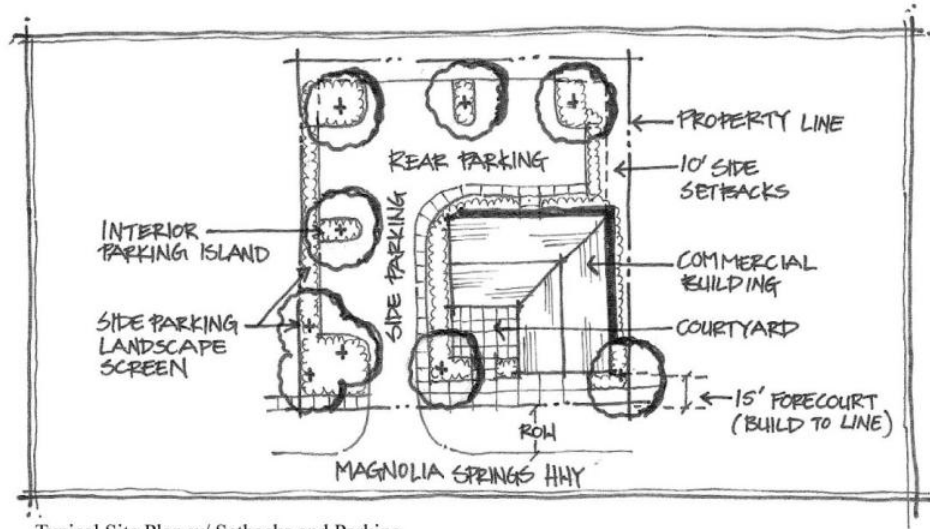
Commentary:

The forecourt concept incorporates a combination of landscape and hardscape in order to merge the historical landscape characteristics of the Springs District, the desire to create pedestrian and neighborhood friendly destinations, and community focal points. The forecourt concept seeks to encourage appropriate areas of socialization in the original design, so that it can be incorporated into the architecture of the building and the site layout.



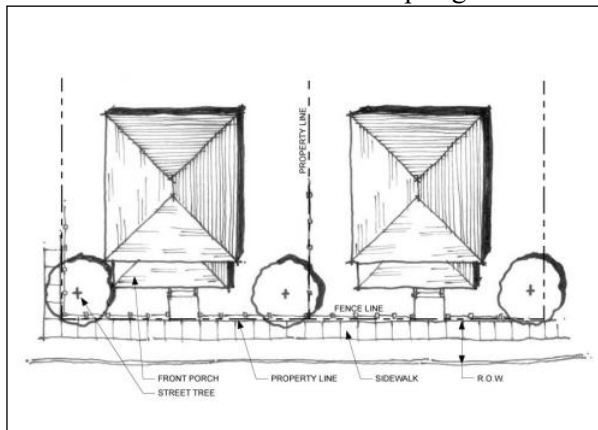
- a) The forecourt build-to line is set at 15 feet from the property line. These 15 feet will create, through the appropriate site design, an area that merges historical character and neighborhood service.

A general site layout of the forecourt is:



Typical Site Plan w/ Setbacks and Parking

ii. Springs Porch:



- a) The Springs Porch frontage type is suited for residential applications in the Town's core. It may be used in professional office applications, but is not suited for neighborhood commercial. It is appropriate where the building is set-back from the property line, thereby, creating a front yard. Historical replications of fences appropriate with the style of the home are encouraged to be placed on the front property lines. Fence heights are to be no more than 4 feet tall.

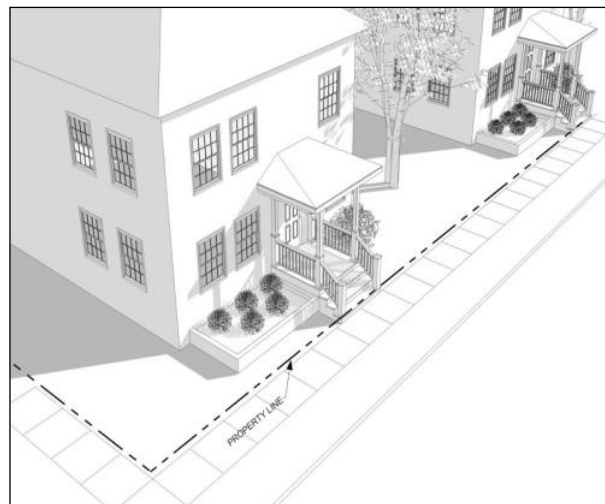
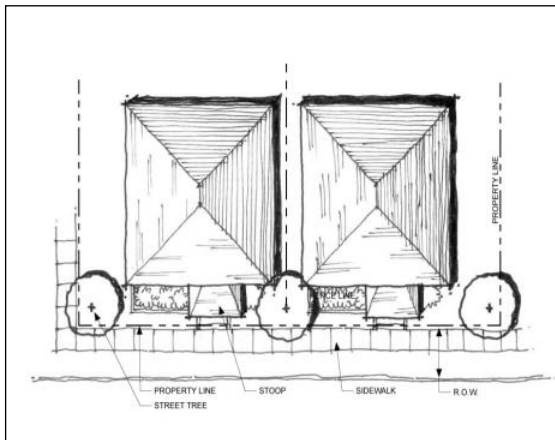
Although porches are not prescriptively required by this frontage type, they are highly encouraged. When porches are provided they should be of sufficient width and depth to be usable and not just an ornamental architectural feature.



Commentary:

The Springs Porch frontage type is a frequent pattern found in Magnolia Springs. It is suited for residential applications in the Town's core. Historical replications of fences appropriate with the style of the home are encouraged to be placed on the front property lines in order to provide a clear delineation between public and private property.

iii. Stoop:



- a) The stoop frontage type is applicable to neighborhood commercial, residential, and civic uses. It is historically accurate in Magnolia Springs, because the building is elevated and is characterized by a small staircase leading to a small front stoop or entry feature.

The stoop frontage type is generally more appropriate when the buildings are sited closer to the front property line. The slightly elevated building thus provides a degree of privacy for the front windows and front rooms of the building.

- b) The front yard depth for a stoop frontage type should be between 8 and 12 feet. The building should be elevated a minimum of 18 inches from the finished grade. Fencing or hardscape not more than 4 feet tall may be installed at the owner’s discretion.



Commentary:

The Stoop frontage type is a historically accurate type for the core of Magnolia Springs. When buildings are sited close to the front property line privacy of the front portion of the structure becomes a concern. Elevating the building helps to create privacy by keeping the occupants of the buildings higher than pedestrian or vehicular traffic, in general. St. Paul’s Chapel is a good example of the stoop concept for a civic building.

- d. Roof Types: Pitched roofs shall be traditional types found in Magnolia Springs such as hip, flat, hipped gable and similar. Barrel and butterfly roofs are prohibited.
 - i. Pitched roofs greater than 3 and 12 shall not be built-up or membrane type.
 - ii. Roofs less than 4 and 12 shall have an architecturally designed parapet.



Commentary:

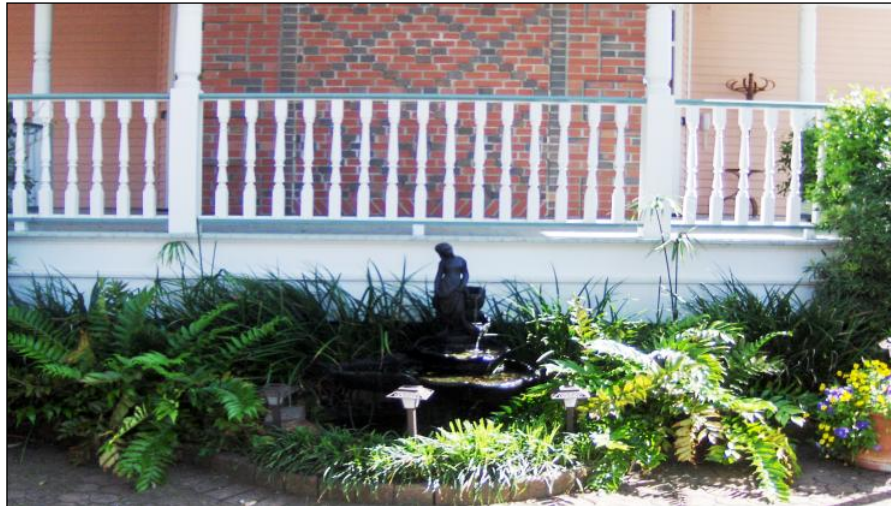
A roof is one of the most dominant features of the structure. Therefore, roofs are a vital element of the design of the individual buildings and in the character of a neighborhood. Proposed roofs should generally conform to the historic patterns of Magnolia Springs and “flat roofs” should have an architecturally detailed parapet.

Appropriate pitched roof



Inappropriate flat roof

- e. Architectural Features and Ornamentation: Buildings should make appropriate allowances for porches where appropriate and the use of architectural features that are visible from the Public ROW. In general architectural features such as porches, dormers, railings, and walls should mimic the architectural characteristics of the primary building.



Appropriate



Inappropriate

Commentary:

Architectural features and ornamentation provide the “finishing touch” for buildings. They can make a building look incomplete if they are overlooked. While these features are not strictly regulated by the zoning ordinance, they may require the approval of the Historic Commission. The zoning ordinance, in order to create a complete Springs District, encourages the use of appropriately designed architectural features and ornamentation.

- f. **Massing and Articulation:** Massing and articulation should work together to break up an individual building form so as to keep its perceived weight, density, and bulk in agreement with the massing of buildings in historical Magnolia Springs.



Appropriate



Inappropriate

Commentary:

In general plain box like forms are not encouraged in the Springs District. Typical boxes without appropriate articulation result in individual buildings that appear to be “heavy and bulky” and are in general inconsistent with Historic Magnolia Springs and the Springs District.

- g. Size of tenants: Commercial buildings located in the Springs District are limited in size to 3,000 heated and/ or cooled sq. ft.

Commentary:

The Springs District seeks to encourage well designed, historically accurate, and pedestrian friendly buildings that emphasize residential characteristics. The Springs District is the historical core of the Town and, thus, deserves special attention. The size of proposed tenants in commercial or mixed use buildings also drive the form of the structure and site improvements; thus, potentially impacting its pedestrian design and impact to the Public ROW.

7. **Site Design:**

- a. Parking: Parking is permitted only on the side or at the rear of buildings. No parking shall be located between the buildings and Oak Street or Magnolia Springs Highway, although diagonal or parallel parking may be allowed in the ROW if approved.
- b. Pedestrian connections: All building entrances shall have a pedestrian connection to the ROW and any improvements in the ROW.
- c. Landscaping: Landscaping is required in the Springs District in conformance with the spirit of the landscaping section of this Ordinance. Development or redevelopment in the Springs District, due to visibility and impact to the core of Magnolia Springs, shall pay particular attention to the landscape design of the front of the property. Side and rear landscape set-backs as required by the typical landscape regulations may not be required by the Planning Commission in order to replicate the historic relationship between buildings and parcels as demonstrated by the Episcopal Church, Community Association Building, and Town Hall.
- d. Signage: No pole signs are permitted. Only monument, and hanging signs are permitted. All size allowances indicated in the Zoning Ordinance are applicable.
- e. Building Materials: Exposed metal buildings are prohibited. Primary materials shall be wood or cementitious siding, brick, stucco or similar materials. Metal shall be reserved for architectural accents and roofs. Vinyl shall be limited to soffits.
- f. Bicycle connections: Bicycle racks are required to be provided in the Springs District. They shall be located near the front entrance to the building(s).

- 8. **Impact of Historic District:** The Historic District applies to all private, public, and commercial property in the Springs District. Any project must comply with the procedural and permit requirements, including architectural review, of the Historic District.

9. **Approvals Required:** A project in the Springs District shall require a recommendation from the Planning Commission and approval from the Town Council. The procedure for approval shall follow the Zoning Map Amendment procedures as established in Article 2.

10. **Site Plan Required:** A site plan is required for all projects in the Springs District. The site plan shall at a minimum provide the following:
 - a. Proposed set-backs for all buildings
 - b. Proposed set-backs for all parking and drive areas
 - c. Pedestrian connections
 - d. Bicycle facilities
 - e. Signage
 - f. Landscape and irrigation plan that conforms to the spirit of the requirements in the landscaping section of this Ordinance.
 - g. Parking and traffic circulation
 - h. Screening and/ or buffer zones; with details
 - i. Proposed uses and hours of operation
 - j. Refuse location and screening
 - k. Mitigation of any negative impacts of projects; i.e. noise, vibration
 - l. All exterior lighting; i.e. parking, and building
 - m. Exterior construction materials
 - n. Elevations of all sides of the building(s).
 - o. Lot size
 - p. Any proposed accessory buildings
 - q. General narrative describing the vision for the project.
 - r. General narrative describing stormwater management
 - s. General narrative describing utilities for the project
 - t. General narrative describing the site in its predevelopment state
 - u. Erosion Control / BMP Plan that incorporates low impact principles

- v. Other information as required by Staff and/ or Town Council or Planning Commission.
- 11. **Compliance:** No building permit shall be issued unless the application is in substantial conformance with the approved site plan. Additionally, no Certificate of Occupancy shall be issued until the property is determined to be in compliance with the building permit.
- 12. **Amendment to an Approved Site Plan:** Changes and amendments to an approved site plan may be considered by the Town in accordance with the zoning map amendment provisions of this Zoning Ordinance. Changes and amendments must be initiated by the owner. Amendments are subject to the 365 day rule as outlined in Article 2.
- 13. **Approval Sunset:** Any approved site plan is effective for 2 years from the date of approval by the Town Council. If a building permit is not issued within 2 years the approval becomes void.

Article 6

Planning, Site and Design Standards

A. Signs:

1. **Intent:** The intent of this article is to reinforce the perception of Magnolia Springs as a unique, pleasant and livable community, and to reflect its architectural resources and natural features. To accomplish this, the standards shall govern the location, size, set-back and height of signs in order to ensure safe construction, light, air, and open space, to reduce hazards at intersections, to prevent the accumulation of trash, and to protect property values of the entire community.
 - a. **Sign Types:** The following identifies the categories, types and general description of signs permitted in the Town. Any other type sign not listed is prohibited.

Looks Like

Primary Elements

Monument:



A permanent sign whose base is on the ground, is generally wider than the sign, and is contiguous to the top of the sign.

Looks Like

Primary Elements

Pole:



A permanent sign with a supporting structural element is narrower than the sign face itself.

Hanging:



A sign and its structural elements are generally mounted perpendicular to a wall of a building or under a canopy.

Incidental:



Small signs two or three feet in total height that direct traffic and people to appropriate locations.

- b. Permits and Exceptions:
- i. Permit Required. It shall be unlawful to erect, alter or relocate any sign without first obtaining a sign permit. When a sign permit has been issued, it shall be unlawful to change, alter or otherwise deviate from the approved permit. A sign permit shall become null and void if the sign for which the permit was issued has not been completed within a period of six months after the date of issuance.
 - (a) Design Requirements: signs over 32 square feet in area or with unusual structural features shall be designed, signed and certified by an Alabama registered professional engineer.
- c. Permit Exceptions. The following signs do not require a permit:
- i.. The changing of copy on signs specifically designed for the use of replaceable copy;
 - ii. One general identification sign per building entrance such as a nameplate, street number, not to exceed three square feet;
 - iii. Decorative flags, banners and bunting authorized by the Town Council
 - iv. Memorial Signs, tablets or corner stones, names of buildings and date of erection when consisting of a cut masonry surface or when constructed of bronze or similar materials not exceeding three square feet;
 - v. Up to four incidental signs or symbols (e.g. entrance, exit, caution, slow, no trespassing) located on and pertaining to a parcel or property not to exceed two square feet in area per sign;
 - vi. Identification signs at the entrance drive of residences which do not exceed three square feet, located on private property.
 - vii. One non-illuminated, double faced, temporary, real estate for sale sign per street frontage not exceeding in face area;
 - In residential zoning districts eight square feet where the property being advertised has a front line of less than 500 linear feet, or 16 square feet where the property being advertised has a front lot line of 500 linear feet or more.
 - In all other districts, 16 square feet where the property or structure being advertised has a front line of less than 200 linear feet, or 32 square feet where the property or structure being advertised has a front line of 200 linear feet or more.
 - viii. One construction sign per street frontage located on property where construction is actually in progress under a current building permit. This

shall be a ground sign not to exceed 16 square feet for residential structures and 32 square feet for non-residential structures. This sign shall be removed before a certificate of occupancy is issued;

- ix. Addresses are required on the face of buildings fronting the public ROW. The numbers are to be a total of no more than 3 square feet. This addressing signage does not impact the total allowable sign area.
- d. Temporary signs:
 - i. In residential districts or for residential uses, temporary signs shall not exceed 18 total square feet at any one time, and shall not exceed 12 square feet for any single sign (Signs are allowed for 72 hours).
 - ii. For all other districts and uses, temporary signs shall not exceed 48 total square feet at any one time, and shall not exceed 20 square feet for any individual sign (Signs are allowed for 72 hours).
- e. Window signs: Are permitted that advertise goods or services available within the building and collectively cover 20 percent or less of the window glass surface area;
- f. Government signs: Signs erected by an agency of government or any lawfully constituted utility;
- g. Canopies: One non- illuminated under canopy sign per business not to exceed three square feet, not lower than eight feet clear above the walkway surface.
- h. Vacant Buildings: Buildings or tenant spaces that are unoccupied for a period of thirty days or more shall have blanks inserted in all signs.

2. Sign Standards

- a. Residential: Two monument signs are permitted for each subdivision, neighborhood subject to the following:
 - i. Each sign area shall not exceed 32 square feet or seven feet in height.
 - ii. The total freestanding sign area for the entire subdivision, neighborhood shall not exceed 96 square feet. All other signs are not permitted.
- b. Non-Residential:
 - i. One building sign shall be allowed for each street frontage of a lot. Sign area may not transfer from one frontage to another.
 - ii. One monument sign shall be allowed for each street frontage of each premise. Corner lots and double frontage lots may not transfer area from one frontage to another.
- c. Size: The aggregate surface area per lot for all permitted signs in non-residential districts shall be limited to the following:
 - i. One square foot for each two linear feet of building frontage for each street frontage.
 - ii. No more than 48 square feet per lot in any business district for each street frontage.

3. **Height and Projection**

- a. Monument signs shall not exceed 5 feet above the natural ground level.
- b. Building signs shall not extend higher than the building surface upon which they are mounted,
- c. Building signs shall not project more than 12 inches from the building surface upon which they are mounted.

4. **Multiple-occupancy Lots or Buildings:** Where a single building or lot contains two or more separate activities or establishments, each activity or establishment shall be permitted a wall sign area based on the portion of the building occupied. The multiple-occupancy lot or building may be permitted one monument directory sign. The directory sign surface shall not exceed 16 square feet and the height shall not exceed 8 feet. The sign shall be monument style, not pole type.

5. **Logos:** In complexes such as shopping centers, or office parks, an additional free-standing sign bearing the name or logo of the center, or park shall be allowed with a maximum height of 8 feet and a maximum surface area 50 square feet.

6. **Gasoline Pricing Signs:** One sign advertising the price of gasoline is permitted. It shall not exceed 16 square feet per sign face and an aggregate area of 32 square feet. Monument Signs shall not exceed 5 feet in height. The sign shall count toward the aggregate size permitted for the lot.

7. **Temporary Event Signs or Banners:** All temporary event signs or banners must be permitted. Permits are subject to the following:

- a. Permits shall be valid for a period no longer than 10 days,
- b. A permit shall be issued for the same property or business no more than three times per calendar year,
- c. Signs shall not exceed 12 feet horizontal and the 4 feet vertical.

8. **Off-premise Directional Signs:** A maximum total of two off-premise directional signs may be permitted per business. The signs may be double sided and shall not exceed 3 square feet in area per side. It is the responsibility of the sign owner to obtain permission from the sign location property owner. No off-premise directional signs may be erected within any right-of-way limits. Maximum sign height shall not exceed 5 feet.

9. **Prohibited Signs**

- a. The following signs are expressly prohibited and subject to immediate removal:
 - i. Any sign erected or painted upon a sloping roof, fence, tree, standpipe, or utility pole.
 - ii. Any sign which is a copy or imitation of official traffic control signs.
 - iii. Signs, which flash or illuminate intermittently, revolve, and animated signs except time and temperature or public service signs.

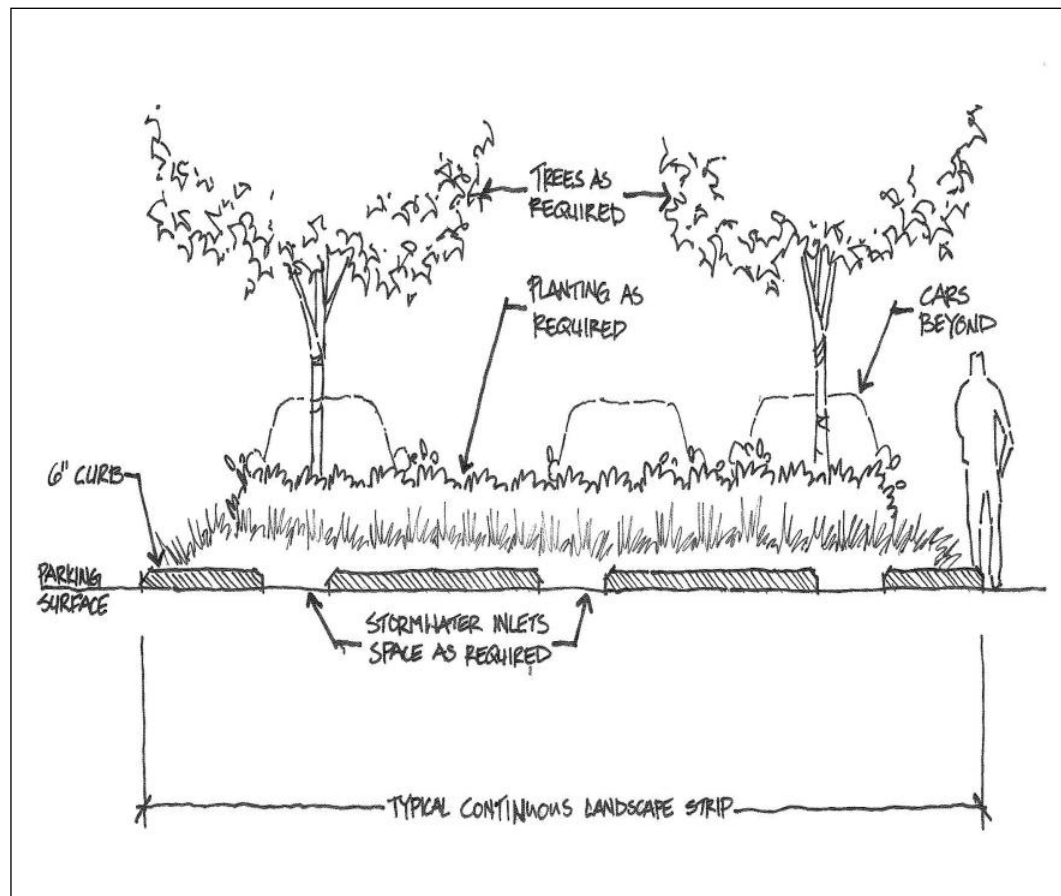
- iv. Signs, which emit visible smoke, vapor, particles, or odor.
 - v. Signs which cause radio or television or other communication interference.
 - vi. Any sign placed on any public right-of-way; unless approved by the Town Council.
 - vii. Any sign attached or painted onto a vehicle, trailer, or portable system parked on or adjacent to public right-of-way for the purpose of advertising.
 - viii. Any tethered inflatable signs.
 - ix. Signs in non-residential zoning districts that are located within 15 feet of a residential district boundary.
 - x. Illuminated or neon signs that produce glare or reflection onto residential property.
 - xi. All signs, which are no longer functional or are abandoned shall be removed or relocated at the owner's expense within 30 days.
 - xii. Pole signs
 - xiii. Flicker flags or similar pole, line, or string mounted flagging.
10. **Sign illumination:** Illumination should be external and mounted on the ground. However, the Planning Commission upon finding that sign illumination is in keeping with the character of the community and in conformance with the overall goals and objectives of the Comprehensive Plan may approve alternative illumination methods upon an application.

B. Landscaping:

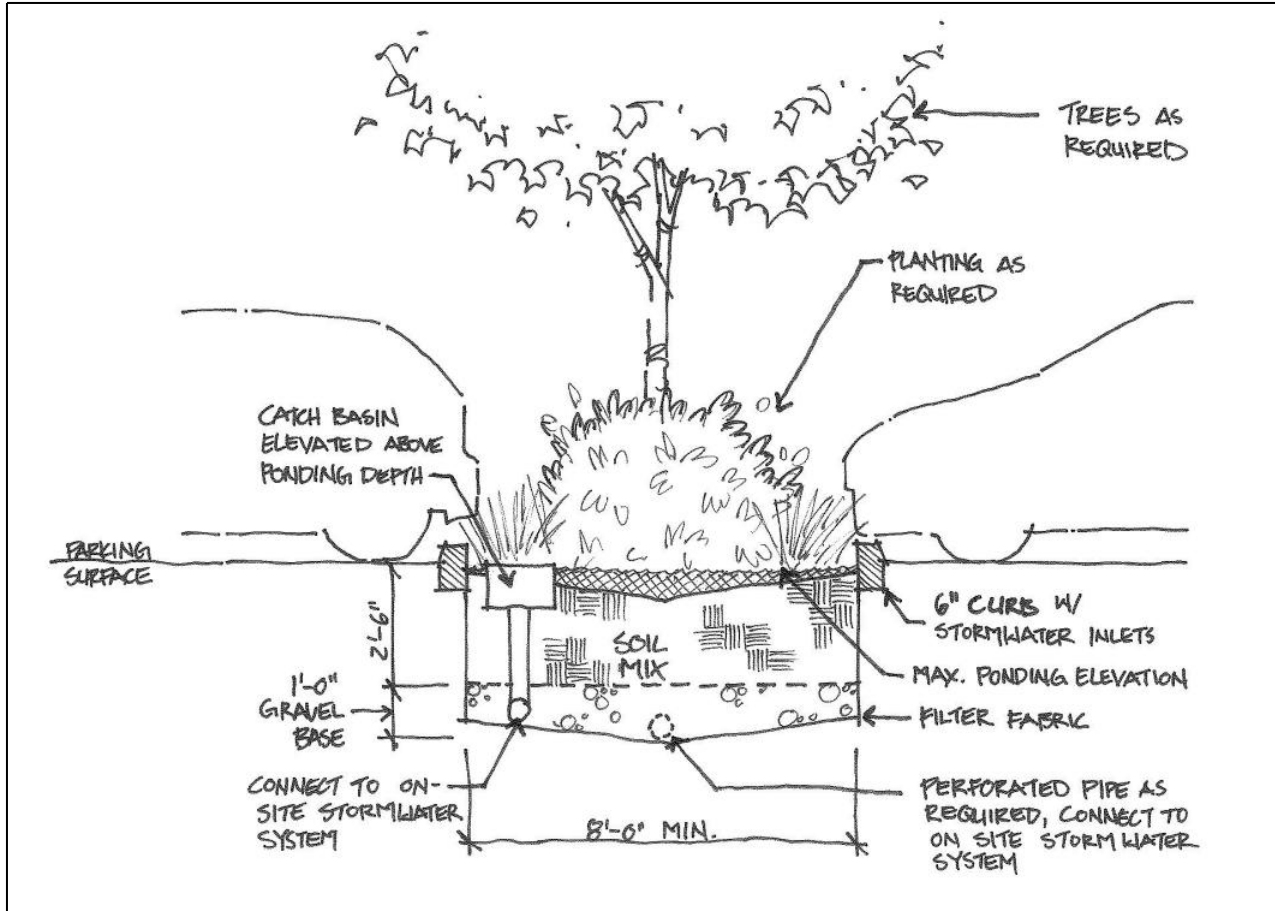
1. **Purpose:** The intent of this Article is to establish minimum standards for the provision, installation, and maintenance of landscape plantings and tree preservation in order to achieve a healthy, beautiful, and safe community. Landscaping, screens, and buffers maintain and enhance the character of neighborhoods and generally create a safer, more attractive and more pleasant living and working environment for all residents of the Town of Magnolia Springs.
2. **Applicability:** The requirements established by these regulations are applicable to all new development or construction except single family residential. These requirements apply to Town facilities or other public or religiously owned facilities and to all property owned by the Town and all public right-of-way.
 - a. **Plan Requirements:** All landscaping and irrigation plans shall be stamped and certified by a Landscape Architect licensed in the State of Alabama. Upon installation or project completion, the landscape architect shall certify in writing to the Town that the submitted, approved landscape plan has been implemented and is in compliance with the provisions of this Article. At a minimum the plans must demonstrate the following:
 - i. Date, scale, north arrow, contact information
 - ii. Dimensions, property lines, building site plan
 - iii. Existing or proposed streets and parking areas
 - iv. Sidewalks
 - v. Tree survey showing all trees greater than 6" DBH
 - vi. Trees to be removed

- vii.. Trees to be protected
 - viii. Method of protection
 - ix. Landscape Plan showing locations, size and species of all materials to be installed
 - x. Plant material list and quantities
 - xi. Proposed tree and shrub requirement calculations
 - xii. Detail of any fences proposed
- b. Tree Protection: All oaks (except water oaks or laurel oaks) long leaf pines, and magnolia trees greater than 24" DBH are protected on all property, including single family, in the Town limits. Cutting, removing, or damaging a protected tree without a permit is prohibited.
- i. Exception: No permit is required on private property for the incidental trimming or pruning of trees provided that no more than 10% of the tree is pruned.
- c. Off Street Parking: Interior and perimeter landscaping is required in all parking lots.
- i. Interior:
 - a) There shall be no more than 8 contiguous parking spaces without an island. Islands shall be no less than 9 feet in width and 19 feet in depth. Island landscape shall be no less than 6 x17.
 - b) A continuous landscape strip at least 8 feet wide shall be provided every two rows of parking. Vehicles shall not overhang into the landscape strip more than 1 foot.
 - c) Vehicle parking within the HOD District areas shall be separated by a landscape island of not less than 6' wide.
 - d) All islands and strips shall be planted with a combination of over story and understory trees, in addition to shrubs, living groundcover, and mulch.
 - e) All islands and strips shall be protected by a concrete curb.
 - d. Perimeter:
 - i. Where parking is provided adjacent to a public right-of-way landscaping and buffering shall be provided to minimize the visual impact.
 - ii. Parking and drive areas adjacent to public rights-of-ways shall provide a minimum of 10 foot contiguous landscape strip.
 - iii. A buffer and landscape zone of not less than 20 feet is required adjacent and parallel to the ROW of US hwy 98. If a property has frontage on another ROW the buffer shall be a minimum of 10 feet.
 - iv. Parking lots or other improvements for vehicle use shall not encroach into the required buffer(s).
 - v. Over story and understory trees shall be planted in the strip at a rate of one tree for every 25 feet, 30 percent of which shall be understory trees.
 - vi. Evergreen shrubs of at least 30" in height at the time of planting shall be installed adjacent to all public ROW.
 - vii. A minimum 5 foot side yard landscape set-back is required in all districts.
 - viii. Over story trees shall be planted side yard set-back at a rate of one tree for every 50 feet.
 - ix. A minimum 10 foot rear yard set-back is required in all districts.

- x. Over story and understory trees shall be planted rear yard set-back at a rate of one tree for every 25 feet, 30 percent of which shall be understory trees.
3. **Low Impact Design:** The Town encourages low-impact design for parking lots and parking lot landscaping. This includes alternative paving materials, ecologically sensitive stormwater management, and use of creative and water-saving landscape materials. The purpose is to allow and encourage sensible and sensitive stormwater management that contributes to the ecological diversity of the Town while protecting the Magnolia River.
- a. Examples of low-impact design that may be considered by the Town are rain gardens, bio-retention, sand and gravel filters and other appropriate designs. All low impact designs shall be certified by the project engineer and the landscape architect.
 - b. Low-impact design that manages stormwater, will be counted as appropriate stormwater facilities based upon the engineers certification.
 - c. Overall pre-development and post-development differential runoff is required to be managed in accordance with the stormwater section of these regulations.



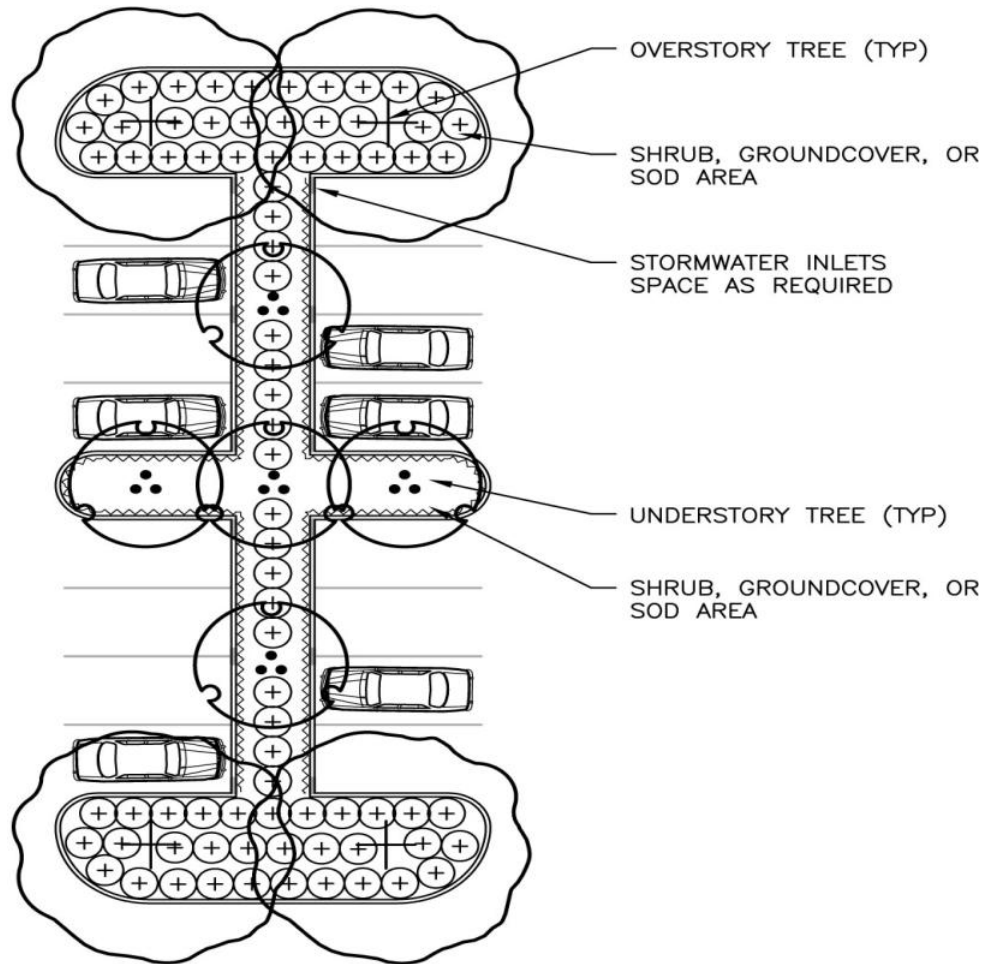
Parking Lot Low Impact Design Example



Parking Lot Low Impact Design Example Section

4. **Landscaping Requirements and Percentages**

- a. Trees planted in accordance with this Article shall meet the following criteria:
 - i. A minimum of four (4) different species shall be planted on each site: Two (2) species shall be over story (large) trees and two (2) species shall be understory (medium) trees in order to promote species richness.
 - ii. Large (over story) trees shall have at least three (3) inches or greater in caliper and ten (10) feet in height at planting.
 - iii. Medium (understory) trees shall have at least three (3) inches in caliper and eight (8) feet in height at planting.
 - iv. Multi-stemmed understory trees shall be a minimum of ten (10) feet in height and must have at least three (3) stems; each with a minimum caliper of one (1) inches.
 - v. Shrubs shall be a minimum of 3 gallons at planting. Shrubs pruned into tree form variations shall not be credited toward tree planting requirements. Ground cover planting shall be established with pots sized four inches or greater.
 - vi. On-site relocated trees may be credited toward these requirements.
 - vii. Grass shall be composed of solid sod on top of a minimum of 4" of top soil. Seed and mulch shall not be accepted at final inspection.



5. **Town Property or Right-of-Way:** No tree, regardless of size, located on any property owned by the Town or on any right-of-way may be cut, pruned, or otherwise intentionally harmed without the permission of the Town Horticulturist.
6. **Tree Removal Procedures:** Before a protected tree can be cut or removed a permit is required.
 - a. The Mayor shall appoint a Town Horticulturist who is empowered to receive applications for permits and review landscape plans.
 - b. The Town Horticulturist shall have the power and authority to issue municipal offense tickets in conformance with this ordinance in order to enforce the section of the landscape regulations.
 - c. The Town Horticulturist shall review every application for tree removal and inspect the tree. He or she shall have the ability to approve a tree removal permit, approve it with conditions, or deny the permit requests.
 - i. Appeals: Any appeal from a decision of the Town Horticulturist is made to the Tree Commission as set forth by that body.

7. **Tree Credits:** A major goal of Magnolia Springs is to protect existing trees. Therefore, incentives are offered to retain existing natural vegetation as follows:
- a. Credit can be taken for a tree if the tree is in good, vigorous, healthy condition as determined by the Town Horticulturist. Tree credits may be used towards landscape requirements. However, the front set-back must contain one over story tree for every thirty (25) feet of road frontage, regardless of credited trees. A tree must be at least eight (8) inches DBH (Diameter at Breast Height--4.5 feet above the grade) to be credited. To determine the number of tree credits allowed, divide the DBH of the preserved tree by eight (8) and round downward, not to exceed seven (7) credited trees for any one preserved.
8. **Suggested Plant Material List:**
- a. Recommended Over story Trees: The following species are recommended for planting within the Town of Magnolia Springs. Other species that are recognized as suitable for this area may be used (if approved by the Town Horticulturist) Species native to coastal Alabama (Baldwin, Escambia, and Mobile Counties) are preferred.
 - *Acer barbatum* Southern Red Maple
 - *Carya* spp. Hickory (any species native to coastal Alabama)
 - *Celtis laevigata* Hackberry/Sugarberry
 - *Fagus grandifolia* American Beech
 - *Fraxinus* spp. Ash (any species native to coastal Alabama)
 - *Liquidambar styraciflua* Sweetgum/Redgum
 - *Liriodendron tulipifera* Yellow-poplar/Tulip-tree
 - *Magnolia acuminata* Cucumber Magnolia
 - *Magnolia grandiflora* Southern Magnolia
 - *Nyssa sylvatica* Blackgum
 - *Quercus* spp. Oak (any arborescent species native to coastal Alabama)
 - *Taxodium ascendens* Pond cypress
 - *Taxodium distichum* Bald cypress
 - *Ulmus alata* Winged Elm
 - b. Recommended Under story Trees: The following species are recommended for planting within the Town of Magnolia Springs. Other species that are recognized as suitable for this area may be used (if approved by the Town Horticulturist) Species native to coastal Alabama (Baldwin, Escambia, and Mobile Counties) are preferred.
 - *Amelanchier aboreum* Downy Serviceberry
 - *Carpinus caroliniana* American Hornbeam
 - *Chamaecyparis thyoides* Atlantic White Cedar
 - *Chionanthus virginicus* Fringe-tree/Grandsie-graybeard
 - *Crataegus marshallii* Parsley Hawthorne
 - *Ginkgo biloba* Ginkgo/Maidenhair Tree (use male plants only)
 - *Halesia caroliniana* Carolina Silverbell
 - *Halesia diptera* Two-wing Silverbell
 - *Ilex* spp. Holly/Ilex (arborescent species native to coastal Alabama)
 - *Juniperus virginiana* Eastern Red cedar
 - *Juniperus silicicola* Southern Red cedar

- Lagerstroemia indica Crape-myrtle (varieties over 15 feet tall at maturity)
 - Magnolia spp. Magnolia (any species native to coastal Alabama plus arborescent deciduous oriental varieties)
 - Nyssa ogeche Ogeeche Gum
 - Ostrya virginiana Eastern Hophornbeam
 - Oxydendrum arboreum Sourwood
 - Persea borbonia Redbay
 - Styrax americanum American Snowbell
 - Ulmus parvifolia Chinese Elm
- c. The following species are recommended for planting within the Town of Magnolia Springs. These species may be used in buffer zone landscaping. Other species that are recognized as suitable for this area may be used if approved by the Town Horticulturist.
- Agarista populifolia Fetterbush
 - Camellia japonica Camellia
 - Camellia sasanqua Sasanqua
 - Cliftonia monophylla Buckwheat tree/Black Titi
 - Ilex cassine Dahoon Holly
 - Ilex myrtifolia Myrtle Holly
 - Illicium floridanum Florida Anise
 - Illicium parviflorum Star Anise
 - Myrica cerifera Southern Bayberry/Wax myrtle
 - Osmanthus americanus American Olive/Devilwood
 - Rhododendron spp. Azalea (large evergreen species/varieties adapted to coastal Alabama)
 - Viburnum Viburnum
9. **Fines and Penalties:** In addition to the enforcement and penalty section of this Ordinance, if a violation is found to have impacted protected trees on Town property or right-of-way or work commences on a protected tree without a permit the following financial fines are also levied:
- a. \$100.00 for each tree 1.0--1.9 inches DBH
 - b. \$500.00 for each tree 2.0--4.9 inches DBH
 - c. \$1,000.00 for each tree 5.0--9.9 inches DBH
 - d. \$2,000.00 for each tree 10.0--14.9 inches DBH
 - e. \$3,000.00 for each tree 15.0--19.9 inches DBH
 - f. \$10,000.00 for each tree 20.0--29.9 inches DBH
 - g. \$20,000.00 for each tree 30.0 plus inches DBH

C. Buffer Requirements

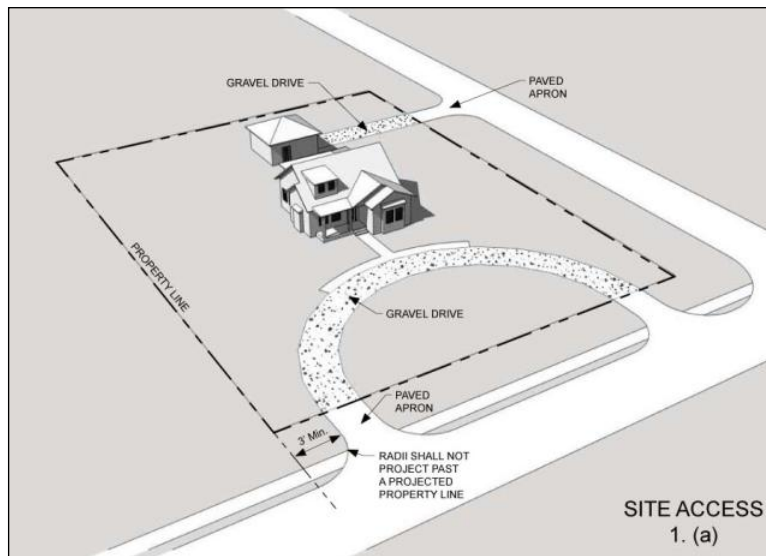
1. **Incompatible Use Buffers:** When any non-single family development is constructed adjacent to a single family district or use, a buffer strip of at least 10' in width shall be provided along the entire common property line(s). This buffer shall be landscaped according to the following:
 - a. An opaque fence not less than 6 feet in height with a line of evergreen shrubs of at least 4 feet wide on both sides of the fence. The purpose of the shrubs is to allow them to grow and screen the visual impact of the fence, or;
 - b. A staggered double row of evergreen shrub plantings of at least 6 feet in width that will grow in width and height to form a natural and evergreen visual barrier.
 - c. All plant material selections must be approved by the Town Horticulturist.
 - d. All buffer areas must be irrigated.
 - e. Sod must be installed in the buffer area in addition to the fence or the double row of plantings.

2. **Stormwater Basins:**
 - a. Stormwater basins are required to be landscaped with living groundcover. Generally stormwater basins do not require additional landscaping, unless due to its location on the property and its potential impact to the public the Town Horticulturist and/ or the Planning Commission find otherwise. The Town Horticulturist and the Planning Commission have the ability to require a landscaping plan with the purpose of providing a visual evergreen screen with a mix of over story trees.

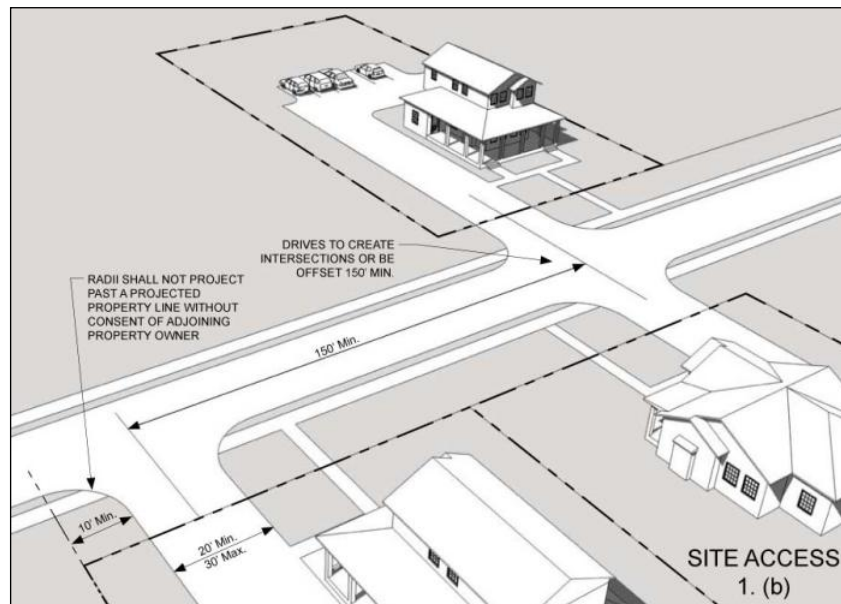
3. **Maintenance:** The maintenance of the buffer shall be the responsibility of the property owner / tenant. The Town Horticulturist has the right to perform an inspection of the buffer at any time to ensure that it is being kept in a condition suitable for its purpose and intent. The Town Horticulturist has the ability to require that dead material be replaced and that maintenance take place if necessary. Failure to comply with the Town Horticulturist is enforceable according to the terms of this Ordinance.

D. Site Access and Parking Requirements

1. **Access to Right-of-Ways:** Access to right-of-ways are regulated by the Town.
 - a. **Single Family:** Drives for single family homes connecting to the Town ROW must have a paved apron to the private property line. This ensures that gravel a property owner chooses to use as driveway material does not migrate into the Town's streets, drainage systems or other public improvements. Driveway radii shall not project past a projected property line and shall be located at least three feet from property lines. A maximum of two drive way connections are permitted on the front of the lot, and one on the street side, of a corner lot.



- b. Non-Single Family: Drives must be shown on all plans submitted for approval or Building Permits. The drives shall be a minimum of 20' in width and a maximum of 30' in width. Drives shall be located no closer than 10 feet from a property line and radii shall not extend past projected property lines without the consent of the adjoining property owner. To the maximum extent possible all drives should line up and create intersection type conditions. However, in the event that opposing drives are created, the off-set shall at a minimum be 150' from center line to center line or as required by ALDOT.



2. **Parking Requirements:**

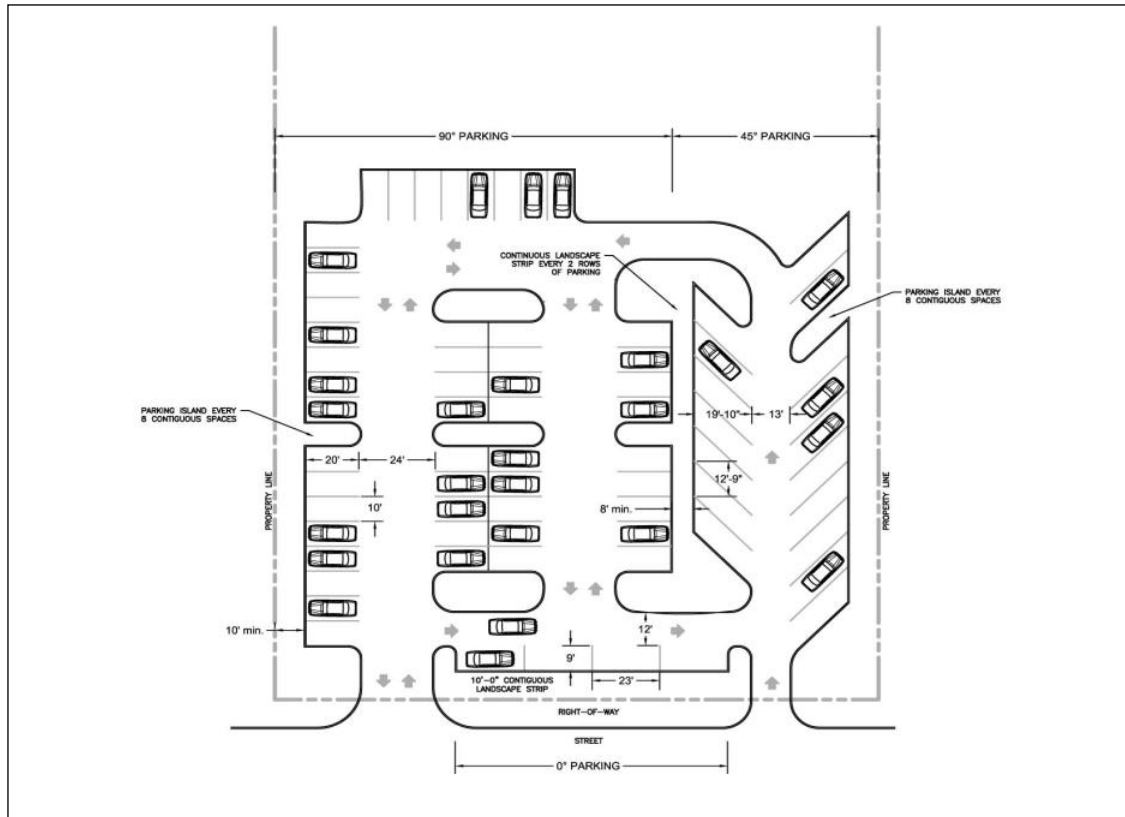
- a. **Shared Parking:** The required number of parking spaces for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use at the same time, except that portion of the parking space required for an existing church whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.
- b. **Calculation:** Any use not specified by these regulations shall require one (1) parking space for each 300 square feet of gross floor area in the building. Where the use is mixed, total requirements for off-street parking shall be the sum of the requirements for the various uses computed separately.
- c. **Usable Area:** Parking is calculated by using usable area of proposed buildings. For example hallways, bathrooms, storage areas, and similar spaces shall not count toward the required parking for any use or building.
- d. **Parking maximum:** The maximum parking that shall be provided for any building or use is 150% of the required parking. Should more parking be requested an application should be made to the Board of Adjustment.

3. **Parking Schedule:** The parking table below is not intended to be an exhaustive list of all anticipated uses that require parking. Rather it is intended to provide guidance for the minimum standards applicable for differing land uses.

Parking Table		
Use	# of Spaces Required	Calculated By
Residential		
Family Dwelling	2	per dwelling unit
Commercial		
Libraries, museums, art galleries	1	500 SF
Kindergarten, Play School, or Daycare Centers	1	per employee
Kennels and animal hospital	1	500 SF
Medical, dental and health offices	1	200 SF
Commercial establishments and offices	1	300 SF
Restaurants, cafes, and similar eating/drinking places	1	100 SF
Shopping centers	1	200 SF
Industrial		
Industrial/Manufacturing	1	500 SF
Mini Warehouses	2	Manager's quarters
Mini Warehouses	1	25 storage cubicles

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

Angle of Parking	Curb Length Per Car	Stall Depth	Access Driveway Width
0	23'0"	9'0"	12'0"
45	12'9"	19'10"	13'0"
90	10'0"	20'0"	24'0"



Note: Parking graphic is for illustration purposes and dimensions only, not intended for design use or purposes.

5. **Paving standards:** As a result of ecological concerns the Town will consider alternate paving materials to include rock, gravel, porous concrete, asphalt, concrete and the similar technology. It is important to note that all required handicap spaces and ramps must be paved with asphalt or concrete.
6. **Drainage:** Off-street parking facilities shall be drained to prevent damage to abutting property and streets and to prevent pollutants from draining onto the adjacent lots. Landscaped areas and perimeter areas shall be graded as to receive a reasonable portion of the rainfall from the surrounding pavement. Protective curbing around landscaped areas should leave openings for the flow of water onto unpaved areas.
7. **Landscaping:** Parking lots shall be landscaped in accordance with landscaping requirements in these regulations.
8. **Off-street loading and unloading space:** Off-street loading/unloading spaces shall be provided:
 - a. Size of spaces. Each off-street loading/unloading space shall have minimum dimensions of 14-feet in height, 12-feet in width, and 55-feet in length. However, upon sufficient demonstration that a particular loading space will be used exclusively by shorter trucks, the Town Staff may reduce the minimum length accordingly to as little as 35-feet.

- b. Connection to street or alley: Each required off-street loading/unloading space shall have direct access to a street or alley or have a driveway which offers satisfactory ingress and egress for trucks.
 - c. Location: All required off-street loading/unloading spaces shall be located on the same lot as the building which they are intended to serve.
 - d. Permanent reservation: Areas reserved for off-street loading/unloading in accordance with the requirement of these regulations shall not be reduced in area or changed to any other use unless the permitted use which is served is discontinued or modified except where equivalent loading/unloading space is provided and approved by the Board of Adjustment.
9. **Curb cuts and vision clearance:** The requirements for controlling curb cuts and maintaining vision clearance shall be as follows:
- a. Curb cuts: No curb cut shall exceed 30-feet in length, nor shall curb cuts be closer than 150-feet to other curb cuts or closer than 50-feet to any intersection of two streets measured along the curb line.
 - b. Vision clearance: In all zoning districts, no obstruction to vision between the heights of 2½ feet and 10-feet from the street level shall be permitted within 20-feet of the intersection of the right-of-way lines of two streets, unless greater distance is required.
10. **Storage and parking of Recreational Vehicles, Boats, Trailers and Commercial Vehicles.**
- a. Recreational vehicles, boats, trailers and commercial vehicles shall not be parked or stored on any lot in any residential district except in accordance with the following requirements:
 - i. No more than one commercial vehicle per dwelling shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products be permitted. All commercial vehicles must be parked on private property only.
 - ii. Recreational vehicles, boats, trailers may not be parked within a front yard (between the primary structure and the street).
 - iii. Recreational vehicles shall not be occupied for a time period exceeding 10 consecutive days while parked or stored in any residential district.
 - iv. A recreational vehicle, trailer or commercial vehicle may not be located on a lot in any residential district by itself.
 - b. Junked vehicles or automotive vehicles without current license plates shall not be parked or stored in any residential district other than in completely enclosed buildings or not visible from public right-of-way. No more than two vehicles shall be permitted per lot.

11. **Exceptions**

- a. **Shared Parking:** Adjacent owners may use shared parking to satisfy the requirements of this ordinance subject to the following:
 - i. Mutual access easements must be executed and recorded in the Judge of Probate office.
 - ii. The parking requirement is the result of the cumulative parking requirements for the uses proposed, except where different uses such as retail and residential, are located on the same or adjacent lots.
 - a) When the differing uses have distinctly different hours of operation up to 100% of the parking may be shared.
 - b) All shared parking must be located within a reasonable proximity to the entrance of the building(s).
- b. **Parking Credits:** Credits may be applied to the parking requirements of the proposed use subject to the following:
 - i. Dedicated, marked, and approved on-street parking within 300 feet of a lot line may be credited at a rate of one credit for every two on-street spaces.
 - ii. Permanent bicycle parking located near the entrance to the building(s) may be credited at a rate of 1 credit for every 5 bicycle spaces, up to a maximum of 15% reduction of automobile spaces.

E. Stormwater and Environmental Protection:

- 1. **Purpose:** These stormwater and environmental protection requirements seek to implement the Town's Comprehensive plan by protecting the sensitive ecological resources in and around the Town, by responsibly managing stormwater runoff to protect personal and public property, and by establishing minimum design criteria and long term maintenance schedules.
- 2. **Applicability:** All non-single family development that falls within the regulatory authority of this ordinance shall comply with these stormwater and environmental protection requirements.
- 3. **Liability:** The Town of Magnolia Springs and its employees and official representatives assume no liability for the design, maintenance, or performance of stormwater management systems. Liability for all designs rests with the professional engineer(s) of record for the project.
 - a. **Engineering Standards:**
 - i. **Submittal requirements:** All developments shall at a minimum provide the following:
 - a) Drainage plans that make provisions for storm and flood water control by appropriate structures which take into account the ultimate development of the upstream drainage area. The plan shall provide the following:
 - 1 foot contours of the property in question and adjacent ROW and property within 50 feet of the property line

- Existing drainage systems and structures either up or down stream that may be impacted
- Proposed stormwater management systems and structures.
- Structure locations, elevations, inverts, details, type, size, and slope
- Differential pre-development and post-development runoff calculations
- Other information as may be required

Commentary:

Stormwater management is not required for single family construction on existing lots of record. However, property owners are highly encouraged to provide site specific stormwater management of their property in order to help preserve the ecological integrity of the Magnolia River, which is an Outstanding Alabama Water. Finally stormwater design for individual lots helps to ensure the protection of neighboring property from damage.

- b. **Flow Controls:**
- i. All projects shall provide adequate stormwater management facilities. The site shall be designed to provide staged release structures that closely match the predevelopment runoff rates of the 2-year through the 100-year storm events. The staging shall be 2-year, 10-year, 25-year, 50-year, and 100-year storm events.
4. **Errors and Omissions Insurance:** The design engineer shall carry professional errors and omissions insurance at a minimum coverage of \$1,000,000. The Town may request a current insurance certificate.
5. **Certification:** All drainage plans shall be certified by an Alabama Registered Professional Engineer, and the following certification must be provided on the plans:

Engineer's Certificate

I, the undersigned, a Registered Professional Engineer in the State of Alabama holding registration number _____, hereby certify that I have reviewed the design herein which was done under my direct control and supervision and that, to the best of my professional knowledge and to the best of my belief, conforms to the requirements established and all other rules, regulations, laws applicable to the design.

Project Engineer

Date

Name of Project to which this certificate applies

6. **Plan Review:** The Town reserves the right to review all drainage plans, designs, and calculations. The Town may or may not, at its sole discretion, seek a third-party review and recommendations on submitted drainage designs. Copies of the report will be provided to the applicant so that revisions, if required, can be made.
7. **Required Permits:** All applicable permits shall be obtained by the owner and/ or contractor. This includes, but is not limited to, ADEM NOR and similar authorizations.
 - a. **Operation and Maintenance:**
 - i. All stormwater management facilities located on private or common property shall be privately owned. The Town will only accept facilities that are constructed to all the Town's standards in publically dedicated ROW.
 - ii. All facilities are to be inspected by an Alabama Registered Professional Engineer at least 1 time every 2 years. The inspection shall determine if the facilities are still operating in accordance with the original design and shall also document any maintenance issues. The Town shall be provided a copy of the report.
 - iii. The owner shall make the required repairs and maintenance as indicated in the report, subject to enforcement proceedings by the Town.
 - b. **Alterations:** Once approved a stormwater design must be substantially complied with. Any revisions to the plans shall be completed and certified by the design engineer and submitted to the Town for approval, prior to construction.
8. **Erosion Control:** All projects shall submit an erosion control plan. At a minimum the plan shall provide for the staged construction of the project with appropriately designed erosion control methods and implementation. All projects shall adhere to the ADEM 13 day rule. Erosion control shall be designed and implemented in conjunction with the recommendations of the Alabama Handbook on Erosion and Sedimentation Control that is produced by ADEM.
9. **Coastal Areas:** All development within Coastal Areas shall provide proof of the appropriate permits and authorizations from all jurisdictions needed.

F. Utilities and Septic Tanks:

1. All projects with lots smaller than 3 acres shall connect to a public water system if it is located within 300 feet of the property.
2. All projects shall meet the requirements of the Baldwin County Health Department, any coastal program requirement, and any other applicable regulations.
3. A project that is to be served by a water and/ or sewer provider shall provide documentation of capacity to serve.
4. Septic tanks are permitted at the discretion of the property owner, subject to the approval of the Baldwin County Health Department.
5. All utilities shall be placed underground to include, but not limited to electric, telephone, cable, water, and sewer.

G. Site Lighting:

Appropriate site lighting is important to the design, safety, and appeal of projects in the Town. However, because inappropriate lighting can be an issue for adjoining property owners and the general public, lighting is subject to the following:

1. **Purpose and Intent.** The purpose of this section of the ordinance is to ensure that all exterior lights are designed, located, installed and directed in such a manner as to prevent objectionable light trespass and glare across the property lines, and /or direct glare at any location on or off the property. The “maintained horizontal luminance recommendation” set by the Illuminating Engineers Society of North America (IES).
2. **Applicability:** The standards in this section shall apply to all new construction and development within the Town of Magnolia Springs.
3. **Parking:** All parking area lighting shall consist of full cut-off type fixtures, each installed in a horizontal position to avoid direct glare.
 - Fixtures are to be placed in curbed islands wherever possible
 - Fixture mounting height to be no greater than 10 ft
 - Maximum to minimum ratio shall be no greater than 10:1

Note: The HOD has special lighting standards and requirements.

4. **Standards:** Uplighting is prohibited. Externally lit signs, display, building and aesthetic lighting must be shielded to prevent direct glare and/or light trespass in excess of 0.2 foot-candles.
 - a. All building lighting for security or aesthetics will be full cut-off or a shielded type, not allowing any upward distribution of light. Flood lighting is discouraged, and if used, must be able to prevent:
 - i. Direct glare for drivers or pedestrians,
 - ii. Light trespass beyond property lines, and
 - iii. Light above a 90-degree, horizontal plane. Unshielded wallpack type fixtures are prohibited.
 - b. **Landscape Lighting:** Lighting embedded in landscaping for the purpose of visual enhancement and beautification is permitted, even if they are uplights.
 - c. **Low Voltage Lighting:** All low voltage lighting is exempt from these regulations.
 - d. Adjacent to residential property, no direct light source shall be visible at the property line at ground level or above
 - e. **Residential Security Lights:** Security lights for residential purposes are permitted provided that the light is not installed within 10 feet of a side or rear property line.

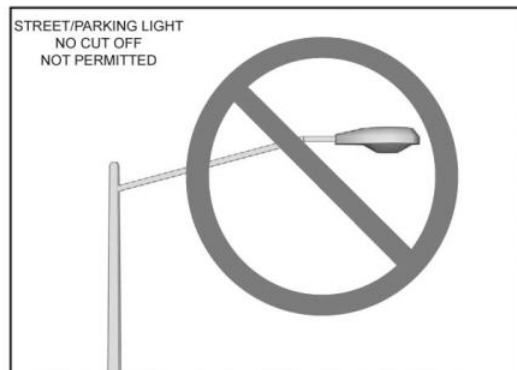
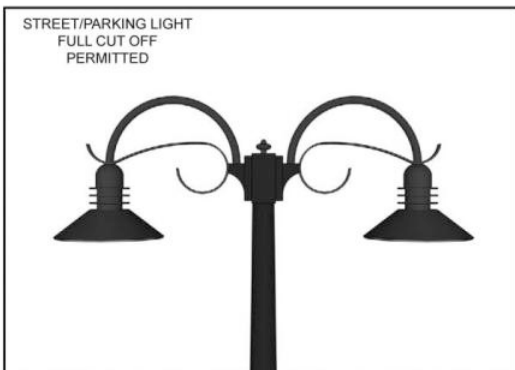
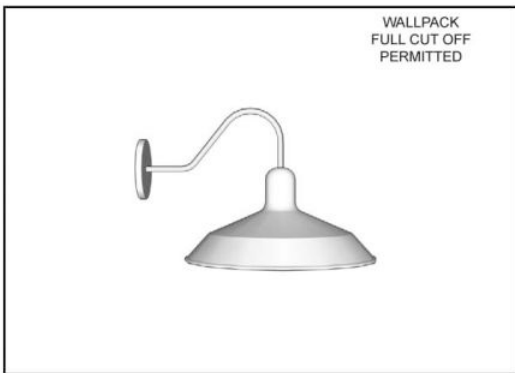
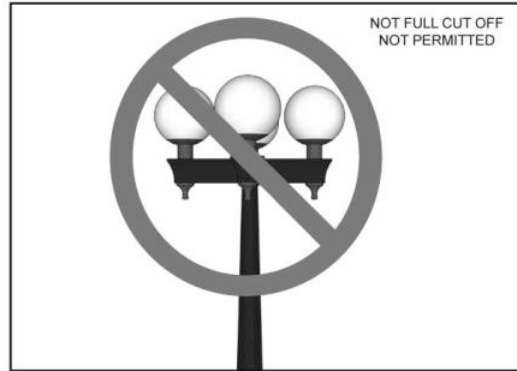
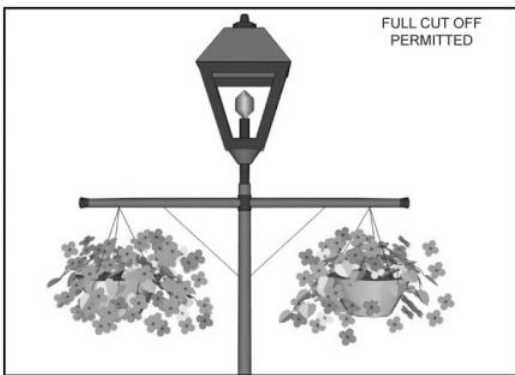
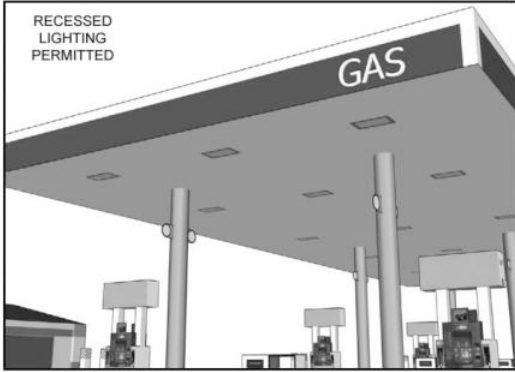
- f. **Commercial Lighting:** The applicant shall submit to the Town sufficient information, in the form of an overall exterior lighting plan, to enable the town to determine that the provisions of this ordinance will be satisfied. The lighting plan shall include the following at a minimum:
 - i. A site plan, drawn to the required scale, showing all buildings, landscaping, parking areas, and all proposed lighting exterior lighting fixtures;
 - ii. Plans and specifications for all proposed lighting fixtures including photometric data, designation as IESNA “cut-off” fixtures, Color Rendering Index (CRI) of all lamps (bulbs), and other descriptive information on the fixtures;
 - iii. Proposed mounting height of all exterior lighting fixtures;
 - iv. Analyses and luminance level diagrams showing that the proposed installation conforms to the lighting level standards in this section. Off-site lighting should be considered in the analyses;
 - v. Drawing of all relevant building elevations showing the fixtures, the portions of the walls to be illuminated, the luminance levels of walls, and the aiming points for any remote light fixtures;
 - vi. Obstructions, such as landscaping at potential mature size, are to be modeled into the photometric design.

 - g. **Lighting of Gas Station/Convenience Store Aprons and Canopies.** All of the above standards shall apply, as well as the standards below:
 - i. Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy.
 - ii. Areas on the apron away from the gasoline pump islands used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking areas set forth elsewhere in this section. If no gasoline pumps are provided, the entire apron shall be treated as a parking area.

 - h. When an outdoor lighting installation is being modified, extended, expanded or added to, the entire outdoor lighting installation shall be subject to the requirements of this section.

 - i. Electrical service to outdoor lighting fixtures shall be underground.

 - j. Proposed lighting installations that are not covered in this section may be approved if they are designed to minimize glare, do not direct light beyond the boundaries in excess of 0.2 foot-candles of the area being illuminated or onto adjacent properties or streets, and do not result in excessive lighting levels.
5. **General Lighting Preferences:** Lighting is an important element in site design. In order to facilitate the use of appropriate lighting standards and to encourage sensitive design the following examples are provided:



H. Fences:

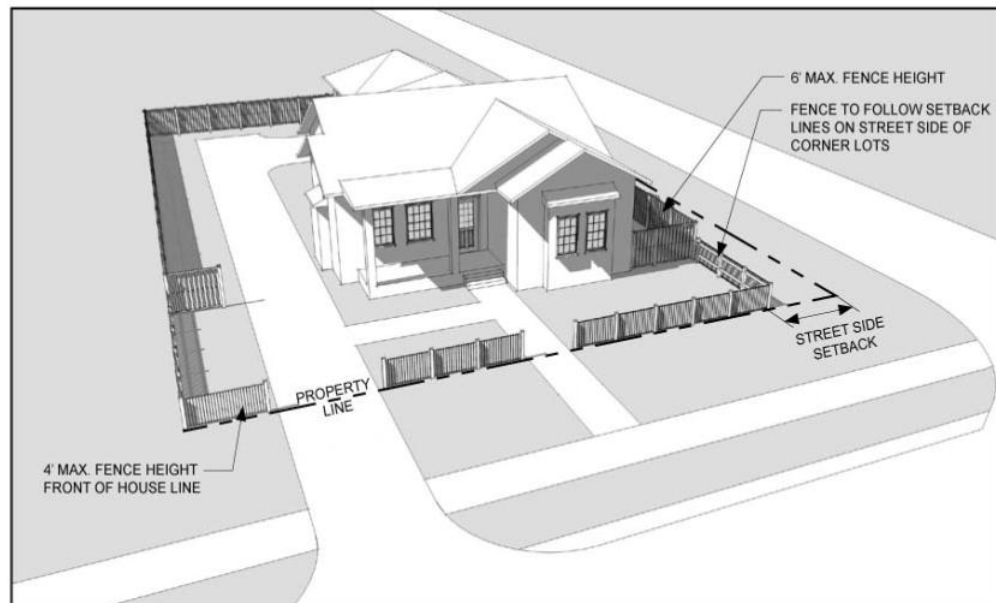
Fences are permitted in every zoning district subject to the following:

1. **Historic Districts:** Fences proposed in the Historic District must have a certificate of appropriateness prior to submission for a building permit.

Commentary:

Decorative fences are allowed to follow the property line on interior and corner lots. Fences for the purposes of privacy, regardless of the type, are permitted on property lines for interior lots and set-back lines only on the street side for corner lots.

2. **Residential:** In all districts, fences shall be a maximum of 6 feet tall. Fences forward of the front of the house line shall be no more than 4 feet tall. Street side fences on corner lots shall follow the set-back line, not the property line and shall adhere to the height requirements above.



3. **Materials:** In all districts the following materials are expressly prohibited:
 - a. Corrugated metal, solid sheets of plywood, particleboard, or metal,
 - b. Razor or barbed wire, except in agricultural applications
 - c. Broken glass
 - d. Solid masonry fences without architectural detailing

- e. Fences forward of the house:
 - i. chain link
 - ii. stockade
 - iii. split rail
 - iv. solid masonry type materials

I. Antennae, Communication Towers, and Satellite Dishes:

1. Exemptions:

- a. Satellite dishes less than 1 meter in diameter are exempt from all provisions of these regulations
- b. Any communication tower or antenna that is not owned and operated by an amateur or any other non-profit entity is prohibited.

2. Removal of Unsafe Communication Towers and Antennae: If upon inspection by the appropriate authorized agent of the Town, a tower or antenna is found to be unsafe it shall be made safe in accordance with the official's order within 90 days. If appropriate corrective action is not taken within the required time the Town may, at its sole discretion, remove the tower or antenna and place a lien upon the property for the cost of the removal.

3. Abandoned Communication Towers and Antennae: Any tower or antenna that is not under continuous operation for a period of 12 months shall be considered abandoned and is subject to being ordered removed from the property. Failure to remove the structure within 90 days of the order may result in the Town removing the structure and placing a lien upon the property for the cost of the removal.

Article 7

Definitions

A. Interpretation

All words in this Ordinance shall have their customary dictionary meaning, unless they are defined otherwise. Graphics, tables, and any additional explanatory commentary are provided to aid in the interpretation and meaning of the text. If there is a conflict or misinterpretation between the graphics, tables, and any explanatory commentary, the text shall govern.

B. Words and Terms Defined

As used in these regulations, the following words and terms shall have the meaning defined:

A zone. (See Floodplain).

Abutting/contiguous property. Any property that is immediately adjacent to, touching, or separated from such a common border by a right-of-way, alley, or easement.

Accessory dwelling. A second dwelling unit that is either contained within the structure of a single family dwelling unit or in a separate accessorial 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 guest houses.

Accessory structure. A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

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

Agriculture/agricultural uses. The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and related accessory uses.

Alteration. Any change in structural parts, stairways, type of construction, kind of class of occupancy, light or ventilation, means of ingress and egress, or other changes affecting or regulated by the building code or these zoning regulations, including extension or expansion, except for minor changes or repairs not involving the aforesaid features.

Alteration, structural. Any change in the supporting members of a building (such as bearing walls, beams, columns, and girders) except such change as may be required for its safety; any addition to a building.

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

Area and dimensional regulations. Numerical standards established for a lot, yard or building in a particular zone.

As of right. Uses that are specifically authorized by the zoning regulations. (See also *Permitted use*).

Attic. An unfinished area below the roof and above the ceiling of the living or garage area of a single family or two family dwelling which is generally used for storage and/or the location of mechanical equipment but not for human habitation.

Auto convenience market. A retail establishment where motor vehicle fuel is retailed directly to the public on the premises in combination with retailing of items typically found in a neighborhood convenience store. An auto convenience market may include a drive-through car wash but may not include automobile service bays.

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

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

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

Bar or tavern. An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises.

Base flood. The flood having a one (1) percent chance of being equaled or exceeded in any given year.

Base flood elevation. The elevation for which there is a one (1) percent chance in any given year that flood levels will equal or exceed it.

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

Board of Adjustment. A board appointed by the Town Council to hear and decide appeals, special exceptions and variances from the terms of the zoning regulations.

Boathouse. A structure constructed over water designed or intended to be used for the purpose of docking, storing and protecting one (1) or more watercraft.

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

Boat slip. A facility for the mooring of watercraft.

Buffer. Land which is maintained in either a natural or landscaped state and is used to screen and/or mitigate the impacts of development on surrounding areas, properties, or rights-of-way.

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

Building height. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip and gambrel roofs. In A-zones building height will be measured from the finished floor elevation. In V-zones building height will be measured from the bottom of the lowest supporting girder.

Building Official. Individual appointed by the Town to carry out inspections required by the building code.

Building line. (See *Set-back line*).

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

Child care facility. A facility established for the care of children as defined in §38-7-2 of the *Code of Alabama, 1975*. For the purpose of these regulations, this definition includes the following:

(a) *Child care center.* This includes facilities licensed as day care centers and nighttime centers in accordance with §38-7-2 of the *Code of Alabama, 1975*. Day care centers and nighttime centers serve more than twelve (12) children.

(b) *Child care institution.* This includes facilities licensed as group homes and child care institutions in accordance with §38-7-2 of the *Code of Alabama, 1975*. These facilities provide full time care.

(c) *Day care home.* A child care facility which is a family home and which receives not more than six children for care during the day in accordance with §38-7-2 of the *Code of Alabama, 1975*.

Church or similar religious facility. A place where religious worship is conducted. The term “church” shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

Coastal construction line (CCL). A line in coastal Alabama determined by the Alabama Coastal Area Management Plan (ACAMP) seaward of which no construction is permitted.

Coastal high hazard areas (V-zones). Areas that are subject to high velocity waters caused by, but not limited to hurricane wave wash.

Commercial occupant. A commercial use, i.e., any use other than residential or agricultural.

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

Commercially developed parcel. A parcel of property on which there is at least one walled or roofed structure used, or designed to be used, for other than residential or agricultural purposes.

Common open space. Open space within a development, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use and/or enjoyment of the residents of the development.

Conditional use. A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a zoning district subject to approval by the Planning Commission, and subject to special requirements, different from those usual requirements for the zoning district in which the conditional use may be located.

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

Conservation easement. An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominately in their natural scenic, open, or wooded condition; retaining such areas as suitable habitat for fish, plants, wildlife; or maintaining existing land uses.

Construction sign. Any sign giving the name or names of principal contractors, architects, and lending institutions responsible for construction on the site where the sign is placed, together with other information included thereon.

Copy. The linguistic content of a sign.

County. Baldwin County, Alabama.

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

Density. The number of dwelling units per acre of land.

Department. The Magnolia Springs Planning Commission.

Development. The construction, reconstruction, repair, demolition, conversion, structural alteration, relocation, removal, or enlargement of any building or structure; any extension of utilities; any construction of streets; any construction of drainage structures; any mine, excavation, land fill, or land disturbance; and/or any change in use, or alteration or extension of the use, of land.

Dwelling. A building or portion thereof used exclusively for residential purposes, including single-family, two-family, and multiple-family dwellings, but not including hotels, boarding houses, rooming houses, lodging houses or dormitories.

Dwelling, multiple-family. A building designed for or occupied by three or more families, with separate toilets and facilities for cooking and sleeping for each dwelling unit.

Dwelling, single-family. A detached building designed for and occupied by one family as a home, with toilets and facilities for cooking and sleeping.

Dwelling, two-family. A building designed for or occupied by two families only, with separate toilets and facilities for cooking and sleeping for each dwelling unit, separated by a common wall and sharing a common roof and foundation.

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

Electric sign. Any sign containing electric wiring.

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

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

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

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

Family. One or more persons living together as a single housekeeping unit and using common cooking facilities, as distinguished from a group occupying a boarding or rooming house or hotel.

Flea market. An occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales. See also yard sale.

Flicker flags. Small, typically triangular shaped but may be other shapes, flags that are most often mounted on string or plastic cord. Flags may be a variety of or uniform in color. See also pennant.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) the overflow of inland or tidal waters.
- (b) the unusual and rapid accumulation of runoff of surface waters from any source.

Flood insurance rate map (FIRM). An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to a community.

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

Floodway. That portion of the floodplain, including the channel, which is reasonably required to discharge the bulk of the regional flood waters. Floods of less frequent recurrence are usually contained completely within the floodway. For the purpose of these regulations, floodways shall be defined as follows:

- (a) The floodways as identified or delineated in the *Flood Insurance Study* for Baldwin County, Alabama.
- (b) Along Small Streams and Watercourses. All lands lying within 25 feet of the top of the bank of the channel (measured horizontally), unless the developer demonstrates to the satisfaction of the Town that a lesser distance (but not less than 15 feet) is adequate based on the watershed characteristics and probable storm runoff for the base flood.

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

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

Frontage. The length of the property line of any one parcel along a street on which it borders.

Funeral home. A building or part thereof used for human funeral services. Such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial or cremation; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns, and other related funeral supplies; and the storage of funeral vehicles. Where a funeral home is permitted, a funeral chapel is also permitted.

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

General commercial uses. This land use includes those commercial activities which require outdoor storage, have higher trip generations than local commercial uses, or have potential for greater nuisance to adjacent properties due to noise, light and glare, or typical hours of operation.

General industrial uses. This land use includes those industrial, manufacturing, processing, warehousing, or research and testing operations that, due to employment of heavy equipment or machinery or to the nature of the materials and processes employed, require special location and development safeguards to prevent pollution of the environment by noise, vibration, odors or other factors.

Generalized Wetland Map. Refers to the National Wetland Inventory (NWI) Maps, the Baldwin county Digital Wetland layer, and/or any other digital data depicting the general locations of wetlands or hydric soils and their degree of functionality within the jurisdiction of Baldwin County.

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

Home occupation, rural. An accessory use to a customary farming operation or a nonfarm household located in a rural area designed for gainful employment involving the sale of goods and/or services that is conducted either from within the dwelling and/or from accessory buildings located on the same lot as the dwelling unit occupied by the family conducting the home occupation.

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

Illuminated sign. A sign which contains a source of light or which is designed to reflect light from an artificial source including indirect lighting, neon, incandescent lights, back-lighting, and shall also include signs with reflectors that depend upon automobile headlights for an image.

Impervious surface. Any hard-surfaced, man-made area that does not readily absorb water, including but not limited to: building roofs, streets; sidewalks, parking and driveway areas paved with asphalt, concrete, gravel, limestone, oyster shells, sand, clay or similar materials, and paved recreation areas.

Impervious surface ratio (ISR). A ratio derived by dividing the total of all impervious surfaces on a lot by the lot area.

Junk vehicle. Any vehicle that does not have a current license tag.

Junk yard. Place, structure or lot where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, etc., are bought, sold, exchanged, baled, packed, disassembled, or handled, including auto wrecking yards, used lumber yards, house-wrecking yards, and yards or places for storage or handling of salvaged house wrecking and structural steel materials. This definition shall not include pawn shops and establishments for the sale, purchase, or storage of usable secondhand cars, salvaged machinery, used furniture, radios, stoves, refrigerators or similar household goods and appliances. Nor shall it apply to the processing of used, discarded, or salvaged materials as part of manufacturing operations.

Jurisdictional determination. An official, written statement or map signed by the U.S. Army Corps of Engineers.

Jurisdictional wetland. A wetland area that is regulated by the U.S. Army corps of Engineers under Section 404 of the Clean Water Act. It can meet the definitional requirements for wetlands (i.e. hydrophitic vegetation, hydric soils and hydrology) as determined by the U.S. Corps of Engineers, 1987 Federal Wetland Delineation Manual.

kennel. A facility which houses dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business. This definition does not include the raising of a litter by an owner who intends to sell or give away the puppies as soon as they are old enough.

Land area. (See *Lot area*).

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

Land use plan. A map and supporting written documentation indicating the projected or proposed utilization of land resulting from planning and zoning studies.

Landfill. A disposal site for the controlled burial of solid waste according to applicable governmental rules and regulations.

Lateral riparian rights. The apportionment of riparian rights between adjoining riparian owners is made by extending lines from the ends of the side lines at right angles to the line of the water front if the latter is straight or substantially so, subject to variation where the line of navigation is not parallel with the shore line, without regard to the direction of the dividing line of the upland parcels. In case of a decided convexity or concavity of the shore, riparian rights are apportioned ratably between the riparian owners, as by straight lines drawn out to the line of navigability at such points as will divide the latter proportionately to the several frontages on the shore, or by line perpendicular to a tangent drawn on a circular shore.

Licensed Engineer. An engineer properly licensed and registered in the State of Alabama.

Light industrial uses. This land use includes manufacturing, research and wholesale establishments which are clean, quiet, and free of hazardous or objectionable emissions, and generate little industrial traffic.

Local commercial uses. This land use includes limited retail convenience goods and personal service establishments as well as professional service and office uses.

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

Lot area. The total horizontal area within the lot lines of a lot.

Lot, corner. A lot abutting upon 2 or more streets at their intersection or upon 2 parts of a street which form an interior angle of less than 135 degrees. The point of intersection of the street lines is the corner.

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

Lot, flag. A lot with access provided to the bulk of the lot by means of a narrow corridor.

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

Lot line. The boundary line of a lot.

Lot line, front. On an interior lot, the lot line abutting a street; on a corner lot, the shorter lot line abutting a street; on a through lot, the lot line abutting the street providing the primary means of access to the lot; on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained; or on a waterfront lot, the lot line abutting the water.

Lot line, rear. The lot line opposite and most distance from the front lot line.

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

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

Lot of record, substandard. A lot of record which has less than the required minimum area or width as established by the zoning district in which it is located and provided that such lot was of record as a legally created lot on the effective date of these zoning regulations.

Lot, through. A lot, but not a corner lot, that abuts upon two streets, the two frontages being noncontiguous.

Lot width. The horizontal distance between side lot lines, measured at the required front set-back line.

Manufactured home. A transportable, factory built home, designed to be used as a year round residential dwelling and built after the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

Marina. A facility for storing, servicing, fueling, berthing, and securing and launching of private pleasure craft that may include the sale of fuel and incidental supplies for boat owners, crews, and guests, servicing and repair of boats, and sale and charter of boats. Dry boat storage may also be provided. A yacht club shall be considered a marina, but a hotel or similar use, where docking of boats and provision of services thereto is incidental to other activities, shall not be considered a marina, nor shall boat docks accessory to a multifamily structure where no boat related services are rendered.

Master plan. The master plan, also known as the Comprehensive Plan, for the physical development of the Town of Magnolia Springs.

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

Minor project. Any agricultural use or single family or two family residential structure and related accessory structures.

Mixed Use. A planned and vertically integrated mix of residential and office or retail uses.

Mobile home. A transportable, factory built home, designed to be used as a year round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

Modular home: A factory-built homes that are built to the state, local or regional code where the home will be located. Modules are transported to the site and installed on a conventional slab or pier foundation.

Monument sign. A monument sign is a freestanding sign, a wall with a permanently attached, or a decorative wall that incorporates a sign. Monument signs are typically constructed low to the ground from natural materials such as stone, brick, or wood and surrounded with additional landscape plantings.

Multiple occupancy sign. A parcel of property, or parcels of contiguous properties, existing as a unified or coordinated project, with a building or buildings housing more than one occupant.

Neighborhood convenience store. Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet. Neighborhood convenience stores shall not include fuel pumps or the selling of fuel for vehicles.

Nightclub. A restaurant, dining room, bar, or other similar establishment providing food or refreshments wherein floor shows or other forms of entertainment by persons are provided for guests.

Nonconforming structure. A structure lawfully occupying a site that does not conform with the standards of the zone in which it is located, including, but not limited to, front set-back, side set-backs, rear set-back, height, coverage, distances between structures and parking facilities.

Nonconforming uses. The use of a structure or premises, existing at the effective date of these regulations, or any amendment thereto, for any purpose not permitted for a new use in the district in which it is located.

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

Open space. An area open to the sky that is intended to provide light and air, and is designed for either environmental, scenic or recreation purposes. Open space may include, but is not limited to, lawns, landscaped areas, buffers, natural areas, wooded areas, unenclosed walkways, decks, patios, fountains and outdoor recreation uses. Streets, driveways, parking lots, buildings and structures that are roofed shall not be included as open space.

Overlay district. A district that is superimposed over one or more zoning districts or parts of districts and that imposes specified requirements that are in addition to those otherwise applicable for the underlying zone.

Parcel. A unit of land within legally established property lines. If, however, the property lines are such as to defeat the purposes of these sign regulations or lead to absurd results, a “parcel” may be designated for a particular site by the Town Council.

Parking garage. A building designed and used for the storage of automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

Parking lot. An area not within a building where motor vehicles may be stored for the purposes of temporary, daily, or overnight off-street parking.

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

Pennant. Any lightweight plastic, fabric, or other material, whether containing a message or not, suspended from rope, wire, string, or other material, whether containing a message or not, suspended from a rope, wire, string, or other similar device, designed to move in the wind.

Permitted use. A use by right that is specifically authorized in a particular zoning district. It is contrasted with special exceptions and conditional uses that are authorized only if certain requirements are met and after review and approval by the Board of Adjustment and Planning Commission respectively.

Pier. An elevated deck structure, usually pile supported, extending out into the water from the shore.

Planning Commission. The Magnolia Springs Planning Commission.

Porch. A roofed-over space attached to the outside of an exterior wall of a building, which has no enclosure other than the exterior wall(s) to which it is attached. Open mesh screening shall not be considered an enclosure. Porches shall be considered as a part of the main building and shall not project into a required front yard.

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

Principal structure. A building in which the primary use of the lot on which the building is located is conducted.

Professional service and office uses. This group of uses includes business and professional offices, medical offices or clinics, financial institutions without drive-up windows, and personal service businesses where the service is performed on an individual-to-individual basis as opposed to services which are performed on objects or personal property. Examples of personal service businesses are barber shops, beauty shops, or photography studios. This group of uses may include a dispatching/communications/office center for the distribution of goods, but specifically excludes the warehousing or actual distribution of goods.

Projecting sign. A sign affixed to a building or wall in such a manner that its leading edge extends more than 6 inches beyond the surface of the building or wall.

Recreational vehicle. A self-propelled vehicle used for temporary housing of individuals and families during travel. This category also includes travel trailers, campers, camping trailers, motor homes, small mobile homes used for vacation purposes and similar transient residential vehicles.

Recreational vehicle park. A lot of land upon which one or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

Residential district. Includes the following zoning districts: ER, R-1(a), R-1(b), R-2(a), and R-2(b)

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

Restaurant. An establishment which primarily serves food and refreshments to its patrons for consumption on the premises.

Rezoning. An amendment to the zoning district boundaries as delineated on the zoning map.

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

Roof line. A horizontal line intersecting the highest point or points of a roof.

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

School. A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools.

Set-back line. A line defining the limits of a yard in which no building or structure, other than an accessory structure, may be located.

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

Sign. Any writing, pictorial presentation, number, illustration, decoration, flag, banner, pennant, or other device which is used to announce, direct attention to, identify, advertise or otherwise make anything known. The term “sign” shall not be deemed to include the terms “building” or “landscaping” or any architectural embellishment of a building not intended to communicate information.

Sign face area. The area of any regular geometric shape which contains the entire surface area of a sign upon which copy may be placed.

Sign structure. Any construction used or designed to support a sign.

Silviculture. The care and cultivation of forest trees.

Site plan. The development plan for one or more lots on which is shown the existing and/or proposed conditions of the lot(s).

Special exception. A land use permitted that is not similar in nature to the uses permitted in the district but that is desired in the community and for which a suitable district is not available. Such use may be permitted upon approval of the Board of Adjustment and in compliance with any special conditions which may be required.

Special flood hazard areas. Land in the floodplain subject to a one (1) percent or greater chance of flooding in any given year.

Stable, public. A building where horses are kept for commercial use including boarding, hire, and sale.

Stable, private. An accessory building in which horses are kept for the use of the occupants of the principal building.

Stormwater management. The process of ensuring that the magnitude and frequency of stormwater runoff do not increase the hazards associated with flooding and that water quality is not compromised by untreated stormwater flow.

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

Story, habitable. A story having its floor elevated at or above base flood elevation as determined from the flood insurance rate maps, regardless of the intended use of the story or its floor area.

Story, half (½). A space under a sloping roof which has the line of intersection of roof decking and wall face not more than 3 feet above the top floor level, and in which space not more than one-half (½) of the floor area is finished for use. A half story containing independent apartment or living quarters shall be counted as a full story.

Street. The full right-of-way of a thoroughfare which affords the principal means of access to abutting property.

(a) *Expressway or highway.* A road which has the main function to accommodate a high volume of traffic for a considerable distance through the prohibiting of ingress and egress except at controlled intervals. A freeway involves complete control of access while an expressway permits access at grade intersections at infrequent intervals.

(b) *Arterial.* A street that connects areas which generate large numbers of trips. An arterial functions to move traffic and to provide access to land uses, particularly high trip generating commercial activities.

(c) *Collector.* A collector has the primary function of collecting traffic from an area and moving it to the arterial street system while also providing substantial service to abutting land use.

(d) *Minor street.* A minor street is one whose primary function is to service abutting land use. This includes cul-de-sacs, marginal access streets, residential access streets and country lanes.

(e) *Marginal access street.* A minor street separating abutting land areas from arterial streets. A service road in commercial areas intended to remove terminal traffic from arterials and allow them to fulfill their high volume, high speed function. An access street in residential areas intended to remove local traffic from arterials and to buffer abutting residential lots from the detrimental effects of highway traffic use by park strips, screen plantings, or other measures, as well as to limit the number of direct driveway accesses to arterials for safety purposes.

(f) *Cul-de-sac.* A minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

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

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

Supermajority: The number of votes required to take an affirmative action as required in the procedure of particular actions. In the case of the Planning Commission it is 6 votes; in the case of the Town Council it is 4 votes; and in the case of the Board of Adjustment it is 4 votes.

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

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

Town. Town of Magnolia Springs

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

Transportation, communication, and utility uses. This group of activities includes those uses which provide essential or important public services, and which may have characteristics of outdoor storage, or potential nuisance to adjacent properties due to noise, light and glare, or appearance. Uses include the following, and substantially similar activities, based upon similarity of characteristics:

- (a) Broadcasting stations and radio, television and telephone transmission towers.
- (b) Utility facilities, such as water plants, wastewater treatment plants, sanitary landfill operations and electric power substations.
- (c) Maintenance facilities and storage yards for schools, government agencies, and telephone and cable companies.
- (d) Airports, airfields, and truck or bus terminals.

(e) Railroad stations, terminals, yards and service facilities.

Unit. That part of a multiple occupancy complex housing one occupant.

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

V-zone. (See *Coastal high hazard areas*).

Variance. A departure from the provisions of these regulations relating to building and other structural set-backs, lot dimensions such as width, depth, or area, structure, or building height, open space, buffers, parking or loading requirements, lot coverage, impervious areas, landscaping, and similar type regulations. A variance may not involve the actual use of the property, building or structures, procedural requirements, or definitions.

Vehicle sign. Any sign affixed to a vehicle.

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

Wetlands. Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

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

Wireless telecommunications facility. A facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunications towers, broadcasting towers, radio towers, television towers, telephone transmission towers or similar structures supporting said equipment, equipment buildings, parking area, access roads and other accessory structures.

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

Yard, front. An open, unoccupied space on the same lot with the principal building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front lines of the building and the right-of-way line. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. On waterfront lots the front yard shall be considered from the front line of the principal building to the waterfront property line.

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

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

Yard Sale: Also known as a garage sale, rummage sale, tag sale, attic sale, moving sale, or junk sale, is an informal, irregularly, scheduled event, frequently held outdoors for the sale of used goods by private individuals.

Zoning Administrator. The Magnolia Springs Town Council or its designee. The Zoning Administrator shall be responsible for administering these zoning regulations.

Zoning amendment. A change or revision of the zoning regulations or zoning map.

Zoning district. A section of the Town delineated on the zoning map wherein all requirements for use of land and building and development standards are uniform.

Zoning map. The map which is a part of these zoning regulations and which delineates the boundaries of various zoning districts within the Town of Magnolia Springs.