



CITY OF ORANGE BEACH
ZONING ORDINANCE
ORDINANCE NO. 172

Adopted April 22, 1991
Amended through March 12, 2019

**CITY OF ORANGE BEACH
ZONING ORDINANCE
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ARTICLE 1
TITLE, PURPOSE AND AUTHORITY

(rev. 10/16/2007 unless otherwise noted)

- 1.01 TITLE**
 - 1.02 PURPOSE**
 - 1.03 AUTHORITY**
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1.01 TITLE

This article shall be known, cited, and referred to as "the City of Orange Beach Zoning Ordinance."

1.02 PURPOSE

The purpose of the City of Orange Beach Zoning Ordinance is to promote and protect the public health, safety, and general welfare of the present and future inhabitants of the City of Orange Beach in accordance with the comprehensive general plan by:

- A.** Dividing the city into districts and regulating the use and intensity of use of the land, buildings, and surrounding open space;
- B.** Controlling and regulating growth and development to ensure adequate transportation, water, electricity, sewers, schools, parks, and other public requirements;
- C.** Providing standards for a dwelling units which protect access to decent, sound, and sanitary housing and meet the region's fair share of housing needs;
- D.** Providing adequate open space for privacy, light, and air;
- E.** Providing protection against fire, flood, and other dangers;
- F.** Conserving and enhancing the value of property;
- G.** Protecting the quality of the natural and built environment; and
- H.** Protecting residential, commercial, industrial, and agricultural areas from harmful encroachment by incompatible uses.

1.03 AUTHORITY

- A.** These regulations are enacted pursuant to Title 11, Chapter 52 of the Alabama Code.
- B.** No building, structure, or land shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with the regulations of this Ordinance.

ARTICLE 2 DEFINITIONS OF TERMS

(rev. 04/03/2018 unless otherwise noted)

2.01 USAGE

2.02 WORDS AND TERMS DEFINED

2.01 USAGE

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

2.02 WORDS AND TERMS DEFINED

As used in this Ordinance, the following words and terms shall have its meaning defined as follows.

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

Accessory Use. The use of land, a detached structure or building, or portion thereof customarily incidental and subordinate to the principal use of the land, structure or building and located on the same lot with the principal use.

Alcoholic Beverages. Any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors or mixed liquor, a part of which is spirituous, vinous, fermented or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half of one percent or more of alcohol by volume, and shall include liquor, beer, and wine, both fortified and table wine. (rev. 02/01/2011)

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

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

Apartment. A room, or a group of rooms, among similar sets in one building, designed for use as a dwelling; a building, or group of buildings containing or made up of such rooms.

Arterial Street. A street designed or utilized primarily for high speed vehicular movements and heavy volumes of traffic; in Orange Beach, Alabama Highways 182 (Perdido Beach Boulevard), 180 (Canal Road), Foley Beach Expressway, and 161 (Orange Beach Boulevard).

Astrologer, Palm Reader, Psychic Art & Science. Any person who practices, teaches, or professes to practice the business of astrology or the psychic arts and sciences for a fee, gift, donation or other valuable consideration. Psychic arts and sciences may include augury, card or tea reading, cartomancy, clairaudience, clairvoyance, crystal gazing, divination, fortune telling, mediumship, necromancy, palmistry, phrenology, or prophecy. (rev. 02/01/2011)

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

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

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

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

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

Beach Shelter. An accessory structure, temporary or permanent, consisting of one or more columns and a roof and not including walls or permanent facilities of any type.

Bed and Breakfast. A building or part thereof, other than a boarding house, hotel, motel or restaurant, under common or single ownership interest and single management, occupied by the owner, and is designed, used, or held out to the public to be a place where sleeping accommodations are supplied for pay to transient guests or tenants; the business which is duly licensed by the City, such building being without cooking facilities of any kind in the guestrooms, having one (1) County Health Department inspected dining room and kitchen facility where breakfast food and drink is served once daily and limited to the transient guests or tenants only; such establishment containing no more than ten (10) individual guestrooms, each with a minimum of one hundred (100) square feet of floor area (not including any bath facilities) and no more than four (4) occupants per guestroom, maintain an inner lobby, and furnish services such as room cleaning, linen supply, and furnishings. (rev. 04/09/2001)

Bedroom, Sleeping Room. For the purpose of this section, bedrooms or sleeping rooms are considered to be any habitable space within a dwelling unit capable of being used for sleeping purposes. This term shall include, but not be limited to, lofts, bunk rooms, home offices and areas designated as future use and shall not apply to areas with specific use designations including kitchen, living room, dining room, bathroom, and laundry room. (rev. 11/17/2015)

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

Board. The Orange Beach Board of Adjustment.

Boarding House, Rooming House, Lodging House, or Dormitory. A building or part thereof, other than a hotel, motel, or restaurant, where meals and/or lodging are provided for compensation, for three (3) or more unrelated persons where no cooking or dining facilities are provided in individual rooms.

Boat Repair. All repair other than normal and customary maintenance, tune ups and related repairs.

Building. A roofed and walled structure, attached to the ground and intended for storage, shelter, housing or enclosure for persons, animals or chattels, and intended for permanent use and/or occupation.

Building, Alterations of. Any change or addition to a building; any changes in use resulting from moving a building from one (1) location to another.

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

Building Height. The vertical distance from grade plane to the average height of the highest roof surface.

Building Official. Individual elected by the City Council to carry out inspections required by the Standard Building Code.

Building Line. (See **Setback Line**)

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

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

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

Campground, Campsite. Land upon which two (2) or more campsites are located or maintained for occupancy by camping units (whether of cloth or hard material and

whether or not same is mounted on a chase with wheels or not) as temporary living quarters for any purpose.

Canal. (See **Channel**)

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

Caterer, Catering, Catering Service. A person, business or service that provides food and incidental service at the request of an owner for a social affair or for a private dwelling for a fee but does not use commercial vehicles equipped in any manner for the purpose of transporting food to be sold directly from such vehicles. Such person, business or service is not a home occupation, is in possession of a health department permit, has a permanent fixed location, and has obtained a City business license.

Caterer, Catering, Catering Service, Industrial. A person, business or service that provides food only at the request of a land owner of a construction site, only for a fee, uses only commercial vehicles equipped for the purpose of transporting food to be sold directly from such vehicle and only to those employees of the construction site where the vehicle is located. Such person, business, service is not a home occupation, is in possession of a health department permit, has a permanent fixed location where the food is prepared, and has obtained a City business license.

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

Certificate of Occupancy. Official certification that a premise conforms to provisions of the Zoning Ordinance and applicable building codes, and may be used or occupied; such Certificate is granted for new construction or for the substantial alteration or additions to existing structures.

Change of Occupancy. A discontinuance of an existing use and the substitution therefore of a use of a different kind or class; not intended to include a change of tenants or proprietors unless accompanied by a change in the type of use.

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

City. The City of Orange Beach, Alabama.

City Council. The City Council of the City of Orange Beach, Alabama.

Clear Cutting. The large-scale, indiscriminate removal of trees, shrubs and undergrowth, whether or not the intention is to prepare real property for non-agricultural development purposes and includes the practice of timber harvesting.

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

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

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

Cluster Home. An attached dwelling unit of one (1) story having a separate ground floor entrance and separate private yard space, with common side walls on one (1) or both sides of the dwelling unit.

Coastal Construction [Setback] Line (CCL). A surveyed "line" determined and designated by the Alabama Department of Environmental Management (ADEM), south of which construction is prohibited, and the purpose of which is to protect the Alabama coastline from harmful activities and effects, preserve the natural environment and its inhabitants, and protect the sand dunes.

Collector Street. A street which carries medium volumes of traffic collected primarily from minor streets and delivered to arterial streets; in Orange Beach, Marina Road (formerly Baldwin County Road 2), Wilson Boulevard, Gulf Bay Road, Bay La Launch Drive, Washington Blvd., Cotton Bayou Drive.

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.

Commission. The Orange Beach Planning Commission.

Common Open Space. An area of land, or an area of water or combination of land and water within the area of a Development which is designed and intended for the use or enjoyment of residents of the Development in common. Common open space may contain such recreation structures and improvements as are desirable and appropriate for the common benefit and enjoyment of residents of the Planned Unit Development. Not included in this definition are streets, street rights of way and utility easements. Easements for underground utilities may be counted towards the open space requirement only if a recreation amenity is provided such as, but not limited to, jogging, walking, bicycle paths, etc.

Condo-Hotel. A residential condominium development in which the residential units are under single management and operated and licensed as a hotel. (rev. 02/17/2009)

Condominium. The form of ownership of real or personal property or a combination thereof under a declaration providing for ownership of units of the property by one (1) or more owners. Such units may consist of private elements together with an undivided interest in common and limited common elements. (rev. 02/17/2009)

Condominium Property. The property covered by the declaration and all easements, rights and interests belonging thereto or intended for the benefit thereof. Where such property is real property there is no requirement that it be contiguous. (rev. 02/17/2009)

Condominium Unit. The private elements of the condominium property together with the undivided interest in the common elements and limited common elements which are assigned thereto in the declaration or any amendment thereof. (rev. 02/17/2009)

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

Convenience Store. A retail store which primarily carries a limited selection of basic items such as packaged foods and drugstore items, and is open long hours for the convenience of shoppers; secondary uses may include the self-service supply/sale of gasoline.

County. Baldwin County, Alabama.

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

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

Declaration. The declaration as described in section Title 35 of the Alabama Code as such declaration may be amended from time to time. (rev. 02/17/2009)

Density. The numerical value of the total number of dwelling units or residential lots per acre of land, usually expressed in units per gross acre and usually stated "units per acre." (rev. 02/17/2009)

Density, Gross. The numerical value obtained by dividing the total number of dwelling units or residential lots in a development by the gross or total area of land (in acres) within the development. (rev. 02/17/2009)

Density, Maximum. The density allowable in a given zoning district not limited by other applicable requirements of this Ordinance.

Density, Net. The numerical value obtained by dividing the total number of dwelling units or residential lots in a development by the area of the actual area of land (in acres) upon which the units or lots are proposed to be located. Net density calculations exclude right-of-ways or publically dedicated streets and nonresidential structures, land uses, and accessory facilities. (rev. 02/17/2009)

Department. Department means the Department of Community Development. (rev. 07/03/2007)

C. Three-Family, Triplex. A detached building on a single parcel comprised of three (3) dwelling units. (rev. 02/17/2009)

D. Four-Family, Quadruplex. A detached building on a single parcel comprised of four (4) dwelling units. (rev. 02/17/2009)

E. Multiple Family (or Multi-Family). A building on a single parcel comprised of three (3) or more dwelling units with each dwelling unit having cooking and living facilities, including, but not limited to triplexes and quadruplexes. (rev. 02/17/2009)

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

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

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

Excavation. Removal or recovery by any means of soil, rock, materials, organic material other than vegetation from water or land whether exposed or submerged.

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

Family. An individual or two (2) or more persons related by blood, marriage or adoption, maintaining a common household in a dwelling unit; or a group of not more than four (4) persons who are not related by blood, marriage or adoption, living together as a common household in a dwelling unit. Domestic servants living on premises are included in this definition.

Fence. A structure, solid or otherwise, that is a barrier and used as a boundary or means of protection, confinement or concealment. (rev. 07/17/2007)

Filling Station. (See **Service Station**)

Fixed Dwelling. A dwelling unit (or structure containing several units) attached to a permanent foundation; does not include mobile homes.

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, e.g., bakeries, dairies, canneries, etc.

Fully Shielded Light. Light fixtures shielded or constructed so that no light rays are directly emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report. The shoe box type fixture must also be properly installed to effectively down direct light in order to conform with the definition. (rev. 05/17/2005)

Garage, Commercial. A building or portion thereof used for equipping, servicing, repairing, rental, selling and/or storage of self-propelled motor vehicles, including the supply and retail sale of gasoline, oil, grease, batteries, tires and motor vehicle accessories.

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

Garage, Public. A building or part thereof designed and/or used for inside parking of self-propelled private passenger vehicles by the general public of the firm.

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

General Store. A store that sells a wide variety of merchandise, including food, clothing, and hardware, but is not departmentalized.

Grade Plane. A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line.

Gross Acreage. The total number of acres within the perimeter boundaries of a Planned Unit Development.

Habitable Rooms. All living spaces within a dwelling unit (house, apartment, townhouse, condominium, mobile home) and/or partitioned designed to be used, or that may be used as a room for the carrying on of general human activities.

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

Home Owners Association. An incorporated, nonprofit organization operating under recorded land agreements through which: (A) each lot and/or homeowner in a planned or other described land area is automatically a member; and (B) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property; and the charge if unpaid becomes a lien against the property.

Home Occupation. Any occupation for gain or support customarily conducted entirely within a dwelling and carried on solely by the owners of said dwelling and which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and does not change the character thereof, and in which not more than twenty-five percent (25%) of the dwelling is used for said home occupation, and also in which there is no public display of sign or goods.

Hotel or Motel. Any establishment where sleeping or sleeping and eating accommodations are advertised or held out to be available to transients, whether such establishment be known as a hotel, apartment hotel, inn, tavern, club, resort, tourist home, tourist court, motel, court, motel court, motor lodge or by other like term and regardless of the number of lodging rooms, suites, or cabins available, but this term shall not be construed to include apartments, clubs, trailer courts, boarding houses, rooming houses or portions thereof where single night accommodations are not advertised or held out to be advertised. (rev. 02/17/2009)

Improvement, Non-Substantial. Any improvement which is not a substantial improvement which cost or value, the greater of the two (2), does not equal or exceed fifty percent (50%) of the market value of the structure added improvement.

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

Institution, Institutional. A nonprofit organization under the Internal Revenue Code.

Interval Occupancy Facility. A facility comprised of one (1) or more dwelling units in which the exclusive right of use, possession, or occupancy of each dwelling unit circulates among twelve (12) or more owners or leases thereof in accordance with a fixed time schedule on a periodically recurring basis.

Jetty, Groin. A rigid structure built out from a shore to protect the shore from erosion, to trap sand or to direct current, and which may also be used as a pier or landing wharf.

Junk Yard. Place, structure or lot where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, lumber, glass, paper, rags, cloth, bagging, cordage, barrel 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; not including pawn shops and establishments for the sale, purchase, or storage of usable second hand cars, salvaged machinery, used furniture, radios, stoves, refrigerators or similar household goods and appliances, nor shall it apply to the processing of used, discarded, or salvaged materials as part of manufacturing operations.

Kennel. Any place or premises where four (4) or more dogs and/or cats are kept for boarding, breeding, or sale.

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

Land Owner. The legal title holder of all the property in question.

Licensee. Any person receiving a license under the provisions of the Ordinance.

Limited Common Elements. A part or parts of the condominium property as set forth in the declaration in which more than one (1) but not all unit owners have an undivided interest. (rev. 02/17/2009)

Liquor. Any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half (1/2) of one percent (1%) or more of alcohol by volume, and shall include liquor, beer, and wine, both fortified and table wine. (rev. 02/01/2011)

Liquor Store. An establishment operated by the Alabama Alcoholic Beverage Control Board where alcoholic beverages other than beer are authorized to be sold in unopened containers and consumed off premise. (rev. 02/01/2011)

Local Street. A street which carries low volumes of local traffic primarily to/from residences, and which connect to collector streets.

Lodging Room. A one (1) story room, which may connect to abutting rooms by interior doors, having an independent ingress or egress from a common interior or exterior hallway or public area intended for sleeping accommodations to transients on a short term basis and not intended for use or uses as a permanent dwelling unit. Lodging rooms with a key entrance to a common interior or exterior hallway will be counted as one (1) lodging room for density calculation purposes. Lodging rooms shall be furnished and may include a mini-refrigerator and microwave, but shall not include full kitchens, full size refrigerators, stoves, dishwashers, or laundry facilities. (rev. 02/17/2009)

Lot. A parcel of land legally defined in a recorded deed or a recorded plat, fronting on a public dedicated right-of-way or approved private drive.

Lot Corner. A lot abutting upon two (2) or more streets at its intersection or upon two (2) parts of a street which form an interior angle of less than one hundred thirty-five (135) degrees; point of intersection of the street lines being the corner; the front yard shall be the frontage which reflects the 911 street address.

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

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

Lot Line, Front. The lot line of shortest length adjacent to the street right-of-way line reflecting the 911 street address.

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

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

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

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

Maintenance and Storage Facilities. Land, buildings, and structures devoted primarily to maintenance and/or storage.

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

Manufactured Home. A structure built off-site that is brought to the site in one (1) piece or in pieces to be assembled to meet all the following criteria:

- A. A pitched roof of three (3) in twelve (12) or fourteen (14) degrees or greater.
- B. Removal of all transport features.
- C. Permanent foundation.
- D. Exterior wall finished in a manner compatible with the neighborhood.
- E. Underpinning with permanent materials.
- F. Orientation compatible with placement of adjacent structures.
- G. Off-street parking per single-family dwelling standards.

Mobile Home, Trailer. A structure, transportable in one or more sections, which is eight (8) body feet in width or more, and/or is thirty-two (32) body feet or more in length and which is built on a permanent chassis, and is designed to be used as a dwelling or for a commercial use, with or without a permanent foundation, when connected to the required utilities, and includes plumbing, heating, air conditioning, and electrical systems contained therein.

Manufacturing, Light. Manufacturing or industrial operations which do not emit detectable dust, odor, smoke, gas or fumes beyond the bounding property lines of the lot or tract upon which the use is located and which do not generate noises or vibrations perceptible in frequency or pressure above the ambient level of noise in areas lying beyond the zone district boundaries in which such operations are located.

Marina. A place for docking boats and, servicing and repairing such boats and providing services to occupants and/or non-occupants as a commercial activity.

Metal Building. Metal-sided building; does not refer to superstructure.

Mini Warehouse, Self-Service Storage Facility. 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 the storage of personal property. (rev. 01/03/2017)

Mobile Home Park. A residential development on a parcel of land in one ownership providing rental spaces for two (2) or more mobile homes on a long term basis, i.e. more than one hundred eighty (180) days and may have recreation and service facilities for the tenants.

Mobile Home Space. A plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.

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

Modular Home. Manufactured housing constructed under codes regulated by the Alabama Manufactured Housing Commission; has a certification label from the State Commission but not from HUD; required to be constructed on a permanent foundation designed by an Alabama Registered Architect or Engineer in compliance with the requirements of the International Residential Code.

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

Neighborhood Lounge, Bar or Tavern. An establishment which primarily serves refreshments for consumption on the premises to its patrons, and which does not allow facilities for dancing, not to include private clubs.

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

Nightclub. An establishment which primarily serves refreshments for consumption on the premises to its patrons, and which allows facilities for food, live entertainment and/or dancing,

Non-Chartered Financial Institution. Any business, other than a federally and state chartered bank, credit union, mortgage lender or savings and loan association that offer check cashing services, automobile title loans, and loans for payment of a percentage or graduated fee. Specifically includes are check cashing and pawn shop businesses that charge a percentage or graduated fee for cashing a check or negotiable instrument and “payday loan” businesses which make loans upon assignment of wages received or businesses that function as deferred presentment services. (rev. 02/01/2011)

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

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

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

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

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

Open Space, Permanent Usable, in Planned Unit Developments.

- A. privately owned and occupied area of a separate lot or tract, outside of any buildings on the lot;
- B. privately occupied open space assigned to an individual dwelling unit in a project and not occupied by the dwelling;
- C. any space not occupied by buildings or privately owned lots or privately owned space; may consist of access driveways, and any other area suitable for the common enjoyment of the residents of the development.

Overlay District. A zoning district that encompasses one (1) or more underlying zones and imposes additional requirements above or modifies requirements of that required by the underlying zone or zones.

Package Store, Alcoholic Beverage Retailer. An establishment licensed by the Alabama Alcoholic Beverage Control Board or engaged in the retail sale of any alcoholic beverages to consumers and authorized to be sold in unopened containers and consumed off premise. This definition does not include convenient stores, drug stores, grocery stores and supermarkets that sell beer and wine as an accessory to the retail sale of food products and beverages, novelties, clothing or any other items of general merchandise. (rev. 02/01/2011)

Park, Public. A natural or landscaped area, buildings or structures provided by the municipal, county, state or national government to meet the active and passive recreational needs of the public. Public parks include neighborhood parks, municipal parks, county parks, state parks, public beach access areas, public boat launch areas, recreational facilities (community centers, gyms, tennis courts, swimming pools), athletic fields (baseball, softball, soccer), dog parks, walking trails, and playgrounds. (rev. 03/21/2017)

Parking Space, Off-Street. Parking space, off-street means a space for the parking of a motor-driven vehicle within a parking lot and having a permanent means of access to a street right-of-way without requiring passage through another parking space. Such space shall meet all dimension and angle criteria in Article 8 of this Ordinance.

Pawn Shop. An establishment that lends money on the security of goods pledged by the owner of such goods on the condition that the goods may be redeemed or repurchased by the owner for a fixed price within a fixed period of time. This definition includes car title pawn companies which provide the borrower with cash in exchange for the borrower's vehicle title as collateral. (rev. 02/01/2011)

Permanent Cosmetic Establishment. An establishment whose principal business activity, either in terms of operation or as held out to the public, is the permanent application of pigment into the skin for eyebrows, eyeliners, lip liner, blush and scar camouflage. (rev. 02/01/2011)

Permit. Any correctly issued written authorization by a duly appointed City representative for an individual, firm, trust, partnership, association or corporation to undertake activities related to subdivisions, zoning, land use, building, erection, excavation, or other permitted activities.

Permittee. Any individual, firm, trust, partnership, association or corporation to whom a permit is granted, including any person to whom a temporary permit is issued.

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

Plat. An engineering drawing which provides for all data related to a development of land and certified as to accuracy by a land surveyor or engineer.

Plan. The proposal for development of a Planned Unit Development, including a plat of subdivision, all covenants, grants of easement and other conditions relating to use, location and bulk of buildings, density development, common open space and public facilities.

Planned Unit Development. The Planned Unit Development (PUD) is a special zoning classification that permits flexibility in densities, setbacks, uses, open space and other bulk and area requirements for property that would otherwise be mandated by the Zoning Ordinance and Subdivision Regulations. The classification is voluntary, and nothing in this Ordinance guarantees a property owner the right to develop a PUD. PUDs shall be approved only if the proposed development fully meets the letter, intent, purpose and requirements of Article 7 of this Ordinance. (rev. 07/03/2007)

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

Portable Building. A building which is not a dwelling unit and which has dimensions and weight permitting transport by motor vehicle.

Privacy. Opaque or Solid Fence. A fence providing concealment of enclosed activities from view of adjoining properties or streets when viewed perpendicular to the plane of the fence. Such fences shall be constructed of wood, metal, brick, stone or reinforced concrete products, or other permanent materials or durable decay-resistant construction.

Chain-link fencing with attachments such as slats, panels, fabric or similar materials is not included in the definition of a solid, privacy fence. (rev. 11/15/2007)

Private Element. A part or parts of the condominium property as set forth in the declaration and intended for exclusive ownership or possession by a unit owner. (rev. 02/17/2009)

Public Land Uses. Any land use operated by or through a unit or level of government, either through lease or ownership.

Recreational Vehicle. A vehicle used for temporary housing of individuals and families during travel, including campers, camping trailers and motor homes.

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

Restaurant. An establishment where food, beverages, and any other food stuffs are prepared, served and consumed primarily on the premises. This definition includes establishments (A) with or without outdoor seating or counters; (B) that take orders prior to sale or delivery; (C) that has the requisite number of sewer taps and a City business license.

Restrictive Covenants. Private regulations recorded with the Final Plat, which limit or otherwise govern the use or development criteria of the land within a subdivision or parcel of land; restrictive covenants are not enforced by the City.

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

Revetment. A facing of stone, concrete, etc., built to protect an embankment.

Right-of-Way. A strip of land dedicated or reserved for use as a public way and may include improved roadways, curbs, lawn strips, sidewalks, lighting and/or drainage facilities, etc.

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

Rooming House. Rooming, lodging and boarding house means a building or establishment which provides for more than four (4) but fewer than twelve (12) persons and may provide meal service. The building or facility shall be so arranged as to permit passage between all living elements such as dining, kitchen and bathrooms. Detached units or private access accommodations are not permitted.

Satellite Receiving Dishes. A dish shaped antenna designed to receive television broadcasts relayed by microwave signals from earth orbiting communications satellites; definition also includes satellite earth stations and television dish antennas.

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

Semi-Public Land Uses. Philanthropic and charitable land uses including, but not limited to, YMCAs YWCAs Salvation Army, churches and church institutions, orphanages, humane societies, private welfare organizations, nonprofit lodges and fraternal orders, hospitals, Red Cross, and other general charitable institutions.

Service Station. A building which primary use is the supply and dispensation of gasoline, oil and greases services and products to the motor vehicle trade; may contain a convenience store as an ancillary use.

Setback Line. A line established by the Subdivision Regulations and/or Zoning Ordinance, parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building or structure, may be located above ground; setback lines extend the complete length or width, as applicable, of the property.

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

Sewage Treatment, Onsite. A septic tank or similar installation on an individual lot which utilizes a bacteriological or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to compliance with health and sanitation laws.

Shopping Center. A group of commercial establishments planned, constructed and managed as an entity with customer and employee parking provided onsite.

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

Story above Grade Plane. Any story having its finished floor surface entirely above grade plane, except that a basement shall be considered as a story above grade plane where the finished surface of the floor above the basement is:

- A. More than six (6) feet (1829 mm) above grade plane;
- B. More than six (6) feet (1829 mm) above the finished ground level for more than fifty percent (50%) of the total building perimeter; or
- C. More than twelve (12) feet (3658 mm) above the finished ground level at any point.

Street. A facility, either public or private and either deeded or an easement, which affords access to abutting property, and includes the entire area between street lines (rights of way lines), providing primary access to abutting property and is intended for vehicular traffic.

Street Address. The lot address as determined by the 911 system.

Structural Alterations. Any change, except the repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams, or girders, or the rearrangement of any interior partitions affecting more than five percent (5%) of the floor area of the building.

Structurally Unsound. A condition that exists when a structure is unable to support the loads imposed on it by any codes adopted by the City.

Structure. Anything erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground. Among other things, structures include but are not limited to walls, carports, fences, bulkheads, signs, screened enclosures, towers, gas or liquid storage tanks, gazebos, pools, and parking decks. Trash containers/receptacles and mailboxes, utility poles and overhead wiring are not considered structures. However, cell or repeated towers are structures.

Structure, Accessory. A subordinate structure that is detached from but on the same lot as, the principal structure, and the use of which is (A) reasonably necessary to the use of the principal structure; (B) subordinate to the principal structure; and (C) does not change or alter the character of the premises. Parking areas, driveways, trash containers/receptacles, telephone and other utility poles, retaining walls, bulkheads, and fences are not accessory structures. (rev. 02/17/2009)

Structure, Existing. Any structure the construction of which was initiated prior to the effective date of this Ordinance and for which all applicable authorizations have been obtained.

Structure, Principal. A building in which is conducted or is intended to be conducted as the main or principal use of the lot on which it is located. For detached single-family dwelling units, there shall be internal access to all interior portions of the structure. Any outlying structures shall be considered an accessory structure unless connected to the principal structure by fully enclosed living space. (rev. 02/17/2009)

Subdivision. The division or re division of a parcel of land or lands into two (2) or more parcels as provided for in the Subdivision Regulations; also includes the joining or rejoining of parcels.

Substantial Construction. A considerable amount either in quantity, value or size of the proposed improvements that have been built, installed, or completed.

Tattoo Parlor, Body-Piercing Studio. An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one (1) or more of the following: (A) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of skin by means of the use of needles or other instruments designed to contact or puncture the skin; (B) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration. This definition excludes permanent cosmetic establishments. (rev. 02/01/2011)

Tourist Home/"Bed and Breakfast". A building or part thereof, other than a motel or hotel, where single-night sleeping accommodations are provided for transient guests, with or without meals and which may also serve as the residence of the operator.

Townhouse/Townhome. An attached dwelling unit of at least two (2) stories having a separate ground floor entrance and separate private yard space, with common sidewalls on one (1) or both sides of the dwelling unit.

Travel Trailer Park, Recreational Vehicle Park. A development for the accommodation of tourists or vacationers on a short term basis, less than one hundred eighty (180) days, providing rental spaces for each individual trailer, camper, motor home, etc., and recreation and service facilities for the use of the tenants.

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

Vacation Rental. A single-family dwelling unit or two-family dwelling unit, duplex constructed for residential occupancy under City Code in which the Owner or Authorized Lessee offers hosted or non-hosted accommodations for periods of fourteen (14) consecutive days or less. Vacation rental does not include any accessory structure such as garages and storage shed. (rev. 04/03/2018)

Variance. A relaxation of certain regulations contained in this Ordinance, where such variance shall not be contrary to the public interest and where, owing to conditions unique to the property and not the result of the actions of the applicant, a literal enforcement on the Ordinance would result in unnecessary and undue hardship.

Vehicular Sales. The storage and display for sale of more than one (1) motor vehicles, whether registered or not, in the name of the owner of the land or lot. This definition includes boats, any type of trailer (provided the trailer is unoccupied), or any other type of vehicle or machinery, operational or not. It also includes retail and wholesale sales.

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

Wholesale Establishment. Business establishments that generally sell commodities to retailers, jobbers, other wholesale establishments, or manufacturing establishments; these commodities being basically for further resale, for use in the fabrication of a product, or for use by a business service.

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

A. Yard, Front. An open, unoccupied space on the same lot with the main building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot; the depth of the front yard shall be measured between the front lines of the building and the right-of-way line. The owner of a corner lot shall have the option as to which of the two or more

fronting streets/avenues shall be the front of the property by establishing the 911 street address.

- B. Yard, Gulfside.** A yard on any lot abutting the Gulf of Mexico across the full width of the lot extending from the coastal construction setback line established by the Alabama Department of Environmental Management seaward to the mean high tide.
- C. Yard, Rear.** An open space on the same lot with the main building, such space being unoccupied except possibly by an accessory building, extending the full width of the lot and the rear lot line; on all corner lots, the rear yard being at the opposite end of the lot from the front yard.
- D. Yard, Side.** An open, unoccupied space on the same lot with a main building, situated between the side line of the same 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 being the rear line of the lot; on corner lots, the side yard being considered as parallel to the street upon which the lot has its greatest dimension.
- E. Yard, Minimum.** That yard space that must remain when the property is developed to the fullest extent allowable under applicable ordinances and codes.

Zoning Official. The administrative officer appointed to administer the zoning ordinance and issue Certificates of Zoning Compliance. In the City of Orange Beach the designated administrative officer shall be the Director of Community Development.

**ARTICLE 3
ESTABLISHMENT OF DISTRICTS**

(rev. 08/19/2008 unless otherwise noted)

- 3.01 ESTABLISHMENT OF DISTRICTS**
 - 3.02 USE DISTRICT**
 - 3.03 ZONING MAP**
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To achieve the purposes of this Ordinance, the Municipality of Orange Beach is hereby divided into the following use districts:

3.01 ESTABLISHMENT OF DISTRICTS

<u>Symbol</u>	<u>District</u>
RS-1	Family Residential District (Lot Width \geq 75')
RS-2	Single-Family Residential (Lot Width \geq 50', \geq 75')
RS-3	Single-Family Residential District (Lot Width \geq 50', \geq 75')
RM-1	Multi Family Residential District (Low Density)
RM-2	Multi Family Residential District (High Density)
BR-1	Beach Resort District (Low Density)
BR-2	Beach Resort District (High Density)
MHP	Mobile Home Park District
MHS 1	Mobile Home Subdivision District (Large Lot)
MHS 2	Mobile Home Subdivision District (Small Lot)
NB	Neighborhood Business District
MR	Marine Resort District
GB	General Business District
I-1	Industrial District
RVP	Recreational Vehicle Park
AG	Agricultural District
GOV	Governmental Use District

PUD	Planned Unit Development (rev. 10/16/2007)
PUD-R	Planned Unit Development-Reserve (rev. 03/18/2008)
RO	Retail Office District (rev. 01/15/2008)
ROD	Restricted Height Overlay District This district shall encompass the entire area within the City Limits except for the following areas: the south side of Alabama State Highway 182 (Perdido Beach Boulevard) from the western City Limits to Perdido Pass, north of Highway 182 and south of the State Park and the municipal property west of Highway 161, north of Highway 182 and south of Cotton Bayou east of Highway 161, all of that area in the City Limits on Perdido Key, and north of the Intracoastal Waterway.
BOD	Beach Overlay District – This district shall encompass the property lying south of Alabama State Highway 182 from the western City limits to Perdido Pass, north of Highway 182 and south of the State Park and the City property west of Highway 161, north of Highway 182 and south of Cotton Bayou east of Highway 161, and all of that area in the City limits on Perdido Key.

3.02 USE DISTRICTS

3.0201 RS-1: Single-Family Residential District (Lot Width > 75 feet)

This District exists for the protection of areas which are, or are planned to be, developed for single family detached dwellings and are generally situated on lots of moderate or large size together with associated accessory uses. Duplexes are permitted as a conditional use under specific conditions some of which are being located on residential collector streets or on a navigable waterway. (rev. 08/21/2007)

3.0202 RS-2: Single-Family Residential District (Lot Width > 50 feet)

This District exists to protect areas which have previously been subdivided into lots of fifty (50) to seventy-five (75) foot width for the purpose of developing single-family detached dwellings. No new land will be zoned into this use District. (rev. 08/19/2008)

3.0203 RS-3: Single Family Residential District (Lot Width > 50 feet)

This District exists to protect areas which have previously been subdivided into lots of twenty-five (25) to fifty (50) foot width for the purpose of developing single-family detached dwellings. No new land will be zoned into this use District or subdivided into lots width less than fifty (50) feet. (rev. 08/19/2008)

3.0204 RM-1: Multi Family Residential District (Low Density)

This District is intended to provide appropriate locations for the development of duplexes, cluster homes, townhouses, and apartments within a suitable residential environment.

3.0205 RM-2: Multi Family Residential District (High Density)

This District is intended to provide appropriate locations for the development of high density multi-family housing.

3.0206 BR-1: Beach Resort District (Low Density)

This District is intended to provide appropriate locations, south of Alabama Highway 182, for single and two family residences and low density multi-family residences and hotels/motels which may have supporting businesses structurally contained in the multi-family or hotel building. It further provides for open spaces based on height and ground coverage of buildings to preserve open views of the beach and dune areas.

3.0207 BR-2: Beach Resort District (High Density)

This District is intended to provide appropriate locations, south of Alabama Highway 182, for single and two family residences and high density multi-family residences and hotels/motels which may have supporting businesses structurally contained in the multi-family or hotel building. It further provides for open spaces based on height and ground coverage of buildings to preserve open views of the beach and dune areas.

3.0208 MHP: Mobile Home Park District

This District is intended to provide appropriate locations for mobile home and recreational vehicle parks and to establish guidelines to ensure sound residential environments.

3.0209 MHS-1: Mobile Home Subdivision (Large Lot)

This District is intended to provide for sound and healthy living environments sufficient to meet the unique needs of inhabitants living in mobile homes, to protect mobile home groups from encroachment by incompatible land uses and encourage the consolidation of mobile homes into mobile home subdivision districts.

3.0210 NB: Neighborhood Business District

This District is intended to provide locations for a restricted range of retail and professional businesses and services. No metal sided commercial or retail building will be allowed in this district.

3.0211 MR: Marine Resort District

This District is intended to provide waterway adjacent locations suitable for resort marinas, including boat docking, mooring, and storage facilities (wet and dry) for pleasure craft and charter fishing boats. These marinas may also provide facilities for the repair, fueling, and maintenance of these boats. This District will also allow restaurants, shops, and services which cater to the marina trade, but these businesses must be located in conjunction with and contained within a marina complex. This District will also

allow single family and multi-family residences. Hotels/motels with supporting businesses structurally contained within the hotel/motel are permitted in this District.

3.0212 GB: General Business District

This District is intended to provide locations for retail trades and services that serve the resident and seasonal populations of the City and visitors. Types of uses permitted are restricted to those that are compatible with the City’s resort character.

3.0213 RO: Retail Office District

This district is intended to provide appropriate locations for offices and less intense commercial uses. It is intended to be more restrictive than GB but less restrictive than NB. This district is designated to provide the necessary office and retail uses without permitting by right in appropriate intense commercial/industrial type uses. (rev. 01/15/2008)

3.0214 I-1: Industrial District

This District is intended to provide locations for heavier commercial and light industrial activities which will not detract from the general livability and resort character of the City because of hazardous operations, unsightly appearance of buildings and surroundings, objectionable emissions, or other factors.

3.0215 RVP: Recreational Vehicle Park

This District is intended to provide appropriate locations for recreational vehicle parks and to establish guidelines to ensure sound planning and positive effect on surrounding environments.

3.0216 AG: Agricultural District

This District is intended to provide appropriate locations for farming, forestry, and agricultural purposes.

3.0217 ROD: Restricted Height Overlay District

This district is intended to provide safe guards to the surrounding environment by guiding building form in a way that is more consistent with the historic form and character of a particular area and to assist in preserving the visual resources of the City. The end result being a positive effect on traffic congestion, and the health, safety and welfare of the citizens of Orange Beach.

3.0218 GOV: Governmental Use District

This district is intended to provide an umbrella zoning category for all municipal, county, state and federal land uses. Uses may include, but are not limited to, passive and active recreation, open space, essential services for waste water treatment, potable water supply, fire, police, administration (city hall and other offices), library, and any other government-related essential services facilities, including structures, buildings and land.

3.0219 PUD: Planned Unit Development District

This district is intended to provide flexibility in densities, setbacks, uses, open space and other bulk and area requirements for property that would otherwise be mandated by the zoning ordinance and subdivision regulations. (rev. 07/03/2007)

3.0220 PUD-R: Planned Unit Development-Reserve

This district is intended for tracts of over two hundred fifty (250) acres in size which have been recently annexed to the City. All tracts of two hundred fifty (250) acres or greater shall be zoned PUD-R at the time they are annexed. This zoning will be a "holding" zone to help the owner/developer take a comprehensive approach to the planning and zoning of the property. No development can occur on the property until the applicant submits a preliminary and final plan as specified in Article 7 of this ordinance. The development of the property can be by phases allowing the owner to respond to any market changes. (rev. 03/18/2008)

3.0221 BOD: Beach Overlay District

This district is intended to provide view corridors, interconnection of properties by public walkways, public beach accesses and progressive building height and design criteria to assist in the preservation of the visual resources of the City. The end result being a positive effect on the health, safety, and welfare of the citizens of Orange Beach.

3.03 ZONING MAP

Said Zoning Districts are bounded as shown on the map entitled "Official Zoning Map of the Municipality of Orange Beach, Alabama", adopted herewith, which accompanies, and with all explanatory matter therein, is hereby made a part of this Ordinance. The original and updated version of the Zoning Map, properly attested, is and shall remain on file in the office of the City Clerk.

**ARTICLE 4
DISTRICT REQUIREMENTS**

(rev. 04/03/2018 unless otherwise noted)

- 4.01 TABLE OF PERMITTED USES**
 - 4.02 REQUIREMENTS FOR LOT AREA, LOT WIDTH, AND OTHER FACTORS**
 - 4.03 MINIMUM SETBACKS**
 - 4.04 MAXIMUM BUILDING HEIGHTS AND DWELLING UNITS PER ACRE**
 - 4.05 BUFFERING BETWEEN USES**
 - 4.06 ALABAMA HIGHWAY 180 FRONTAGE ROADWAY REQUIREMENT**
 - 4.07 MAXIMUM AND MINIMUM PRINCIPAL BUILDING SIZE**
-

4.01 TABLE OF PERMITTED USES

The following Table contains a list of land uses permitted in each district. Opposite each land use, in the appropriate and district column or columns, the letter "R" identifies those districts in which a particular land use is permitted by right. The letter "P" identifies those uses allowed through a conditional use permit.

4.0101 Conditional Uses and Approval

A. Certain uses may be determined to be essential or desirable for the general convenience and welfare of the public, but may not be automatically compatible within a particular district. A use may be permitted within a district by conditional use approval when it is established through site plan review that the location, design, and proposed activity will not adversely affect the public health, safety, morals, and general welfare of the surrounding impacted area and that appropriate conditions are put into place or practice which reduce the impact of such proposed conditional use. Conditional uses shall not include the following: an increase in density, height, or maximum building coverage, or a reduction in required lot area, setbacks, street frontage or access, maximum building coverage, buffering, yards or any other provision of the zoning or other city ordinances that would otherwise apply to any use permitted by right in that district.

B. Site Plan Requirements and Architectural Review – Procedures.

Each application for a conditional use approval shall be accompanied by a site plan submitted in accordance with provisions of Article 10 of this Ordinance. The Planning Commission may hold a public hearing after proper notification. Upon review by the Planning Commission, it shall make one of the following recommendations to the City Council:

- 1. Approved as submitted;
- 2. Approved with changes or conditions;
- 3. Disapproval.

Recommendations for site plan with a conditional use and all related documents shall be forwarded to the City Clerk for consideration by the City Council in accordance with procedures established in Article 12.09, Council Public Hearing and Notice – Zoning Ordinance.

C. Termination, Extension and Transferability

1. Conditional use approval shall terminate when any of the following occurs:
 - a. Termination of the site plan in accordance with Article 10.0310.
 - b. Transfer, lease or sale of the use permitted as a conditional use to another person, persons or other entity.
 - c. Transfer, lease, or sale of the property on which the conditional use has been granted.
 - d. Any change to the conditions or requirements on which the approval of a site plan or conditional use was approved.
 - e. Rezoning.
2. Conditional uses shall not be transferable. Conditional uses shall not be considered *grandfathered* under any circumstances.
3. No extensions of a conditional use site plan approval are permitted.

4.0102 Uses Not Specified

In any case where a use is not referred to by the Table of Permitted Uses or elsewhere in this Ordinance, such use shall be determined by the Zoning Official and referenced to the most clearly analogous use or uses that are specifically referred to in the Table of Permitted Uses. When the status of a use has been so determined by the Zoning Official, such determination shall thereafter have general application to all uses of the same type. If the property owner does not agree with the Zoning Official's determination, he may make a written appeal to the Municipal Council for their review and final determination.

4.0103 Special Provisions in BR & MR Districts

NOTE: Non-residential uses in BR are restricted to containment within a structure which primary use is a multi-family residence or hotel and must be a supporting service to the multi-family residence or hotel with the exception of chair and umbrella beach services and waterside bars serving refreshments, beverages and snack-type foods not requiring a health department permit. Non-residential uses in a MR must be a supporting service to a marina.

R = Land Use Permitted by Right P = Conditional Use Approval

Permitted and Conditional Uses	Zoning Districts													
	RS 1 2 3	RM 1	RM 2	BR 1 2	MH P	MH S	NB	MR	GB	RO	I 1	RV P	AG	GO V
Accessory buildings and uses including home occupations & home swimming pools when located on the same lot as the principal structure/use & customarily incidental thereto	R	R	R	R	R	R	R	R	R		R	R	R	
Agriculture & related farming operations, including horticulture, plant nurseries, market gardening, field crops and orchards (Article 5)	R										R		R	
Air conditioning sales/service									R		R			
Airport and/or crop dusting-spraying services											R		P	
Ambulance/EMS services									R		R			R
Amusement/recreation services: must be arranged so that noise, vibration, lights & all other possible disturbing aspects are enclosed, screened or otherwise controlled so that operation will not unduly interfere with the use and enjoyment of the surrounding area; amusement park											R			
Recreation Services														
Archery range											R			
Baseball batting range											R			
Billiard or pool hall				R					R					
Bowling Alley									R					
Fairgrounds, circus/carnival											R		P	P
Golf course	P								R		R		R	R
Golf course, miniature									R					P
Golf driving range									R		R		R	R
Racquetball, indoor (restricted for private use in RS-1 and 2)	R	R	R	R	R	R		R	R			R		
Theatre, indoor				R					R					
Theatre, outdoor/drive-in											R			
Animal clinic/small animal kennel											R		P	
Antique store, not including repairing and refinishing							R		R	R	R			
Apparel & accessory store				R			R		R	R				
Appliance store									R	R				
Apothecary				R			R		R	R				
Armory											R			
Art gallery or museum (rev. 12/2/2008)				R			R	P	R	R				
Art supplies				R			R		R	R				

Permitted and Conditional Uses	Zoning Districts													
	R S 1 2 3	R M 1	R M 2	B R 1 2	M H P	M H S	N B	M R	G B	R O	I 1	R V P	A G	G O V
Astrologer, Palm Readers, Psychic Art & Science (see Section 5.26) (rev. 02/01/2011)									R		R			
Auditoriums, stadiums, coliseums									R		R			
Automobile parts sales, except used parts									R	R	R			
Automobile storage, including parking lots: must be enclosed in a privacy fence no less than eight (8) feet in height									R		R			R
Automobile, travel trailer, camper, farm equipment and implements and mobile home sales (new and used): need not be enclosed in a structure, but any mechanical or body repair must be done entirely within a structure which shall not have any opening, other than a stationary window, within one hundred (100) feet of a residential district									R		R			
Automobile & truck washing & polishing including steam cleaning									P		R			R
Automobile/truck repair garage, mechanical/body: must be conducted in structure with no opening other than a stationary window within 100' of a residential district and shall not store or maintain parts or waste materials outside structure									R		R			R
Automobile/truck sales/service, not including commercial wrecking, dismantling or auto salvage yard; need not be enclosed in structure provided unenclosed part complies with the requirements for maintenance of off-street parking facilities									R		R			
Automobile/truck service including minor repair, where primary function is retail sales of gasoline, oil, grease, tires, batteries and accessories, and where services are limited to installation of items sold, washing, polishing, repairs, but not including commercial wrecking, dismantling or salvage yard, major overhauling or body work									R		R			R
Bait store or sales (live bait)								R	R					
Bakery, retail				R				R	R	R				
Bakery, wholesale									R		R			

Permitted and Conditional Uses	Zoning Districts													
	R S 1 2 3	R M 1	R M 2	B R 1 2	M H P	M H S	N B	M R	G B	R O	I 1	R V P	A G	G O V
Bank, including drive-in							R		R	R	R			
Barber shop or beauty parlor				R			R		R	R				
Barber/beauty supplies & equipment sales									R	R				
Bed and Breakfast (rev. 04/09/2001)				R				R	R					
Bicycle, lawnmower sales, service and repair/rental									R	R	R			
Boat construction, storage, service and repair, wet and dry major											R			
Boat docking & dry storage of pleasure boats as accessory use to permitted principal use; maximum of one slip per unit in multi-family developments; boat repair service prohibited		R	R						R					
Boat docking & dry storage of pleasure boats as accessory use to permitted principal use; maximum of three (3) slips per single family unit; boat repair service prohibited	R													
Boat docking as an accessory use to a permitted principal use; intended to allow boat passengers to use on-land facilities, such as restaurants, lounges, etc; may not sell fuel, oil, etc., non-enclosed dry storage allowed								R	R		R			
Boat storage, service and repair; a marina for docking pleasure boats and providing services thereto and to the occupants thereof, including minor servicing and minor repair to boats while in the water, sale of fuel and supplies, provision of lodging, food, beverages and entertainment as accessory uses; charter boat fishing services								R	R		R			
Boat sales, accessories & service								R	R		R			
Bottling works											R			
Building materials supply, provided that all storage areas are screened from view									R		R			
Bus and truck terminal facility											R			
Business machine sales/service									P		R			
Business school/trade school									P		R			
Butane & other liquefied petroleum gas products storage/sales											R			
Cabinet/carpenter shop									R		R			
Café, grill, lunch counter and restaurant, not including night club, bar, tavern & drive-in restaurant				R			P	R	R	R	R			

Permitted and Conditional Uses	Zoning Districts													
	R S 1 2 3	R M 1	R M 2	B R 1 2	M H P	M H S	N B	M R	G B	R O	I 1	R V P	A G	G O V
Camera/photographic supply store				R			R		R	R	R			
Candy, nut & confectionery store				R			R		R	R				
Canvas products manufacturer											R			
Car wash, not including trucks or trailers									R		R			
Carting, express, crating, hauling, storage											R			
Catering shop or service				R				R	R					
CATV operation; limited to one (1) building to house equipment, no more than four (4) dishes and two (2) towers for antennas; maximum height for towers is thirty-five (35) feet; screening required, may include fencing & natural plantings									R		R			R
Churches & related accessory buildings	R	R	R	R	R	R	R	R	R	R	R			
City Hall, police station, fire station, courthouse, federal office building & similar public buildings									R		R			R
Clinic, dental, medical or psychiatric for humans							R		R	R				
Clothing manufacturer											R			
Club or lodge, fraternal, civic, charitable or similar organization, public/private				P			P	R	R	P	R		R	
Cold storage plant											R			
College or university							P		R	R	R			
College sorority/fraternity house									R	P				
Concrete/concrete products manufacture: need not be enclosed in structure											R			
Contractor's storage yard for vehicles, equipment, materials and supplies: need not be enclosed within structure, but must be enclosed in solid 8' fence									R		R			
Convenience store							P		R	P	R			
Dairy equipment sales											R			
Dairy products sales (retail)				R				R	R	R	R			
Delicatessen				R			P	R	R	R	R			
Department store							P		R	R				
Dog pound											R			P
Drive-in restaurant									R	P				
Drug store				R			R		R	R				

Permitted and Conditional Uses	Zoning Districts													
	R S 1 2 3	R M 1	R M 2	B R 1 2	M H P	M H S	N B	M R	G B	R O	I 1	R V P	A G	G O V
Dry boat storage business, as accessory use or principal use. Need not be enclosed in structure; but if not so enclosed, must be enclosed by a privacy fence of no less than eight (8) feet								R	R		R			P
Dry goods or fabric store									R	R				
Dwelling, one family	R	R	R	R	R	R	R	R	R			R	R	
Dwelling, two family	P	R	R	R			R	R	R				R	
Dwelling, multi-family		R	R	R				R	R					
Electric power generating plant											R			
Electric power substation; shall be enclosed in structure and must be secured by chain link or similar fence or be raised above ground so as to be inaccessible to unauthorized persons; requires visual screening											R	R		R
Electric repair shop									R	R	R			
Electric supply store									R	R	R			
Elevator maintenance service									R		R			
Employee credit union office				R			R		R	R	R			
Farm/garden equipment/supply store									R	P	R		P	
Farmer's market											R		R	
Fix-it shop, including small appliance repair									R	R	R			
Fixture sales									R	R	R			
Floor covering sales/service									R	P	R			
Floral shop				R			R		R	R				
Food locker plant including rental of lockers for storage of food; cutting & packaging of meats and game, but not the slaughtering of animals or fowl											R			
Food products processing plant											R			
Food products, wholesale storage and sales									R		R			
Freight depot, truck											R			
Frozen food manufacture and packaging											R			
Fruit/produce, retail									R	R	R			
Funeral home, mortuary/undertaking									R	P				
Furniture/home furnishing store, including office furniture/equipment									R	R	R			
Furniture repair, upholstery and refinishing									R	P	R			
Gas station							P		R	P	R			

Permitted and Conditional Uses	Zoning Districts													
	R S 1 2 3	R M 1	R M 2	B R 1 2	M H P	M H S	N B	M R	G B	R O	I 1	R V P	A G	G O V
Gift shop – one thousand (1,000) square feet or greater in Marine Resort Zoning District. Requiring conditional use approval pursuant to Article 4.0101				R			R	R	R	R				
Grocery store, retail							P		R	P				
Gymnasium, commercial									P	P	R			
Hardware store, retail									R	R				
Hardware store, wholesale, storage and sales									R		R			
Hatchery, poultry or fish											R			
Heating/plumbing equipment, supplies and sales									R	P	R			
Hobby shop/supply store				R			R		R	R				
Home occupation, except charter boat which shall be a conditional use (rev. 03/21/2017)	R	R	R	R		R	R	R	R				R	
Hospital, clinic, convalescent or nursing home, extended care facility for humans									R	P	R			
Hotel, motel				R				R	R					
Ice plant											R			
Institution for children/aged							P		R	P	R			
Interior decorating shop							R		R	R				
Kindergarten/playschool/daycare center, public/private provided that all activities are carried on in enclosed building or fenced yard							P		R	P				
Laboratory, scientific											R			
Laboratory, medical or dental									R	P	R			
Landscape garden sales; need not be enclosed in structure									R		R			
Laundry, self service				R	R			R	R	P	R	R		
Laundry/dry cleaning pick-up station				R			R		R	R				
Laundry/dry cleaning plant											R			
Laundry/linen supply				R					R		R			
Leather goods/luggage store				R			R		R	R				
Library		R	R				R		R	R				
Liquor/wine/beer sales not consumed on premises, liquor store, package store, alcoholic beverage retailer (see Section 5.25) (rev. 02/01/2011)				R					R		R			
Livestock/poultry raising; minimum three (3) acres											R		R	
Loan office							R		R	R				
Locksmith									R	R	R			

Permitted and Conditional Uses	Zoning Districts													
	R S 1 2 3	R M 1	R M 2	B R 1 2	M H P	M H S	N B	M R	G B	R O	I 1	R V P	A G	G O V
Lumber yard/building materials								P		R				
Machine shop										R				
Machinery, tools & construction equipment, sales & service										R				
Mail order house								R		R				
Manufacturing, repair, assembly or processing establishments of light industrial nature, including but not limited to the following: confectionery, food, frozen dessert & mild products processing/manufacturing										R				
Clothing/garment manufacture										R				
Laboratories for testing materials, chemical analysis & photographic processing										R				
Musical instruments and parts manufacture										R				
Scientific, optical and electronic equipment assembly and manufacturing										R				
Souvenirs/novelty manufacture										R				
Toy, sporting goods & athletic goods manufacture										R				
Marina stores and supplies								R	R		R			
Metal products fabrication										R				
Millwork/similar wood products manufacture										R				
Mobile homes					R	R								
Mobile homes, sales										R				
Mobile home park					R									
Mobile home subdivision						R								
Motorcycle sales, service, repair/rental									R	P	R			
Music store				R			R		R	R				
Natural resource production, including the extraction of oil, gas and water										R		R		
Night club, bar, tavern & cocktail lounge when separate from restaurant				P				R	R	P				
Non-chartered financial institutions (check cashing, payday loans) (see Section 5.26) (rev. 02/01/2011)									R		R			
Novelty/souvenir manufacture										R				
Office				R			R	R	R	R	R			
Office equipment/supplies, retail									R	R				
Oil well equipment/supplies manufacture										R				
Optician							R		R	R				

Permitted and Conditional Uses	Zoning Districts													
	R S 1 2 3	R M 1	R M 2	B R 1 2	M H P	M H S	N B	M R	G B	R O	I 1	R V P	A G	G O V
Paint & wallpaper store								R	R					
Painting/decorating contractor								R		R				
Paper supplies, wholesale								R		R				
Park or playground including recreation centers: need not be enclosed in structure	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Passenger depot, bus								R		R				
Pawn shop (rev. 02/01/2011)								R		R				
Permanent cosmetic establishment (rev. 02/01/2011)				R			R	R	R					
Pet shop							R	R	R					
Photographic studio and/or processing				R			R	R	R	R				
Picture framing							R	R	R					
Pipe storage										R				
Plastic fabrication										R				
Plumbing shop								R		R				
Police substation, including highway patrol								R		R				R
Post office								R		R				R
Printing, blueprinting, bookbinding, photostatting, lithographing and publishing establishment								R	P	R				
Public utility production & maintenance building with proper screening										R		R		
Public utility substation with screening	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Radio/television station & transmitting tower										R		P		
Recreational vehicle park					R						R	P		
Reducing, exercise, karate, domestic or other body fitness type salon				R			R	R	R					
Restaurant (dine-in)				R				R	R	R	R			
Riding academy										R		R		
Roofing and sheet metal shop										R				
Rug and/or drapery cleaning service								R	P	R				
Sand and gravel storage yard										R				
Schools, public/private, encompassing grades K-12	R							R	P			R	R	
Seafood processing plant										R				
Seafood store, retail								R	R	R		P		
Sewage disposal plant (Municipal)										R		R	R	
Shoe repair shop				R				R	R					
Shoe store, retail				R				R	R					
Sign shop										R				

Permitted and Conditional Uses	Zoning Districts													
	R S 1 2 3	R M 1	R M 2	B R 1 2	M H P	M H S	N B	M R	G B	R O	I 1	R V P	A G	G O V
Stone monument sales, retail; may include cutting and processing merchandise sold at retail on site											R			
Studio for professional work or teaching of fine arts such as photography, drama, speech, painting				R			R		R	R				
Studio for dance or music				R			R		R	R				
Surgical or dental supplies manufacture											R			
Surgical or dental supplies retail									R	R				
Tailor shop				R			R		R	R				
Tattoo parlor, body-piercing studio (see Section 5.26) (rev. 02/01/2011)									R		R			
Taxi dispatching station									R		R			
Taxi terminal; storage & repair of vehicles											R			
Taxidermy shop								R	R	P	R		P	
Teen club or youth center									R	P	R		R	R
Telephone exchange		R	R	R	R	R	R	R	R	R	R	R		R
Telephone equipment storage including shops and garage; need not be enclosed in structure but must provide adequate screening											R			
Temporary uses including revival tents and carnivals, not to exceed two weeks in any calendar year											R		R	
Timber growing, cultivation, harvesting by permit only, sales and removal by right of trees not protected (rev. 05/04/99)	R	R	R	R	R	R	R	R	R	R	R	R	R	
Toy store				R			R		R	R				
Transit vehicle storage/servicing; need not be enclosed in structure											R			R
Utility company storage facility; must provide adequate screening											R			
Vacation Rentals (rev. 04/03/2018)		R	R	R	R		R	R	R			R	R	
Variety store							P		R	R				
Veterinary service							P		R	P	R		R	
Video store				R			R		R	R				
Warehouse/storage facility, minor; mini-type do-it-yourself storage									P		R			
Water storage, other than private use									R		R		R	R
Water or sewage pumping station, other than private use									R		R		R	R

Permitted and Conditional Uses	Zoning Districts													
	R S 1 2 3	R M 1	R M 2	B R 1 2	M H P	M H S	N B	M R	G B	R O	I 1	R V P	A G	G O V
Water recreation equipment rental, personal watercraft including skis, sail and motor boats, surf boards, surf sails, etc. provided that noise and all other disturbing aspects are controlled so operation of equipment will not unduly interfere with the use and enjoyment of properties in the surrounding areas				R				R	R					
Welding shop											R			
Well drilling company											R			
YMCA, YWCA and similar institutions								R	P	R		R	R	

(rev. 08/20/2002; rev. 01/15/2008; rev. 12/02/2008; rev. 02/01/2011)

4.02 REQUIREMENTS FOR LOT AREA, LOT WIDTH, AND OTHER FACTORS

TABLE 4.02 : REQUIREMENTS FOR LOT AREA, LOT WIDTH, AND OTHER FACTORS			
Zoning District & Land Use	SIZE & COVERAGE REGULATIONS		
	Minimum Lot Area (sf)	Minimum Lot Width at Building Front Setback	Maximum Building Coverage
<u>RS-1 Single-Family Residential</u> Single-Family Dwelling Two-Family Dwelling	9,000 sf 10,500 sf	75' 75'	42% 47%
<u>RS-2 Single-Family Residential</u> Single-Family Dwelling	5,000 sf	50'	30%
<u>RS-3 Single-Family Residential</u> Single-Family Dwelling (rev. 08/09/2008)	5,000 sf	50'	30%
<u>RM-1 Multi-Family Residential</u> Single-Family Dwelling Two-Family Dwelling Multi-Family Dwelling Patio Home, Cluster Home, Zero Lot Line Home where the entire parcel will be of one housing type	20,000 sf 20,000 sf 20,000 sf 5,000 sf	100' 100' 100' 50'	56% 56% 56% 56%
<u>RM-2 Multi-Family Residential</u> Single-Family Dwelling Two-Family Dwelling Multi-Family Dwelling Patio Home, Cluster Home, Zero Lot Line Home where the entire parcel will be of one housing type	20,000 sf 20,000 sf 20,000 sf 5,000 sf	100' 100' 100' 50'	56% 56% 56% 56%
<u>MHP Mobile Home Park</u>	See Article 6		
<u>MHS Mobile Home Subdivision</u>	See Article 6		
<u>BR-1 & BR-2 Beach Resort</u> Single-Family Dwelling Two-Family Dwelling Multi-Family Dwelling Hotel	20,000 sf 20,000 sf 20,000 sf 20,000 sf	100' 100' 100' 100'	56% 56% 56% 56%

TABLE 4.02 : REQUIREMENTS FOR LOT AREA, LOT WIDTH, AND OTHER FACTORS			
Zoning District & Land Use	SIZE & COVERAGE REGULATIONS		
	Minimum Lot Area (sf)	Minimum Lot Width at Building Front Setback	Maximum Building Coverage
<u>NB Neighborhood Business</u>			
Single-Family Dwelling	20,000 sf	100'	56%
Two-Family Dwelling	20,000 sf	100'	56%
Patio Home, Cluster Home, Zero Lot Line Home where the entire parcel will be of one housing type	5,000 sf	50'	56%
Business	20,000 sf	100'	56%
<u>MR Marine Resort</u>			
Single-Family Dwelling	9,000 sf	75'	42%
Two-Family Dwelling	10,500 sf	75'	47%
Multi-Family Dwelling	20,000 sf	100'	56%
Business	20,000 sf	100'	56%
<u>GB General Business</u>			
Single-Family Dwelling	20,000 sf	100'	56%
Two-Family Dwelling	20,000 sf	100'	56%
Multi-Family Dwelling	20,000 sf	100'	56%
Business	20,000 sf	100'	56%
<u>RO Retail Office</u>			
Business (rev. 05/20/2008)	20,000 sf	100'	56%
<u>I-1 Industrial</u>			
Business	20,000 sf	100'	56%
<u>AG Agricultural</u>			
Single-Family Dwelling	9,000 sf	75'	42%
Two-Family Dwelling	10,500 sf	75'	47%
<u>GOV Governmental</u>			
Governmental	20,000 sf	100'	56%
<u>PUD Planned Unit Development</u>	See Article 7		

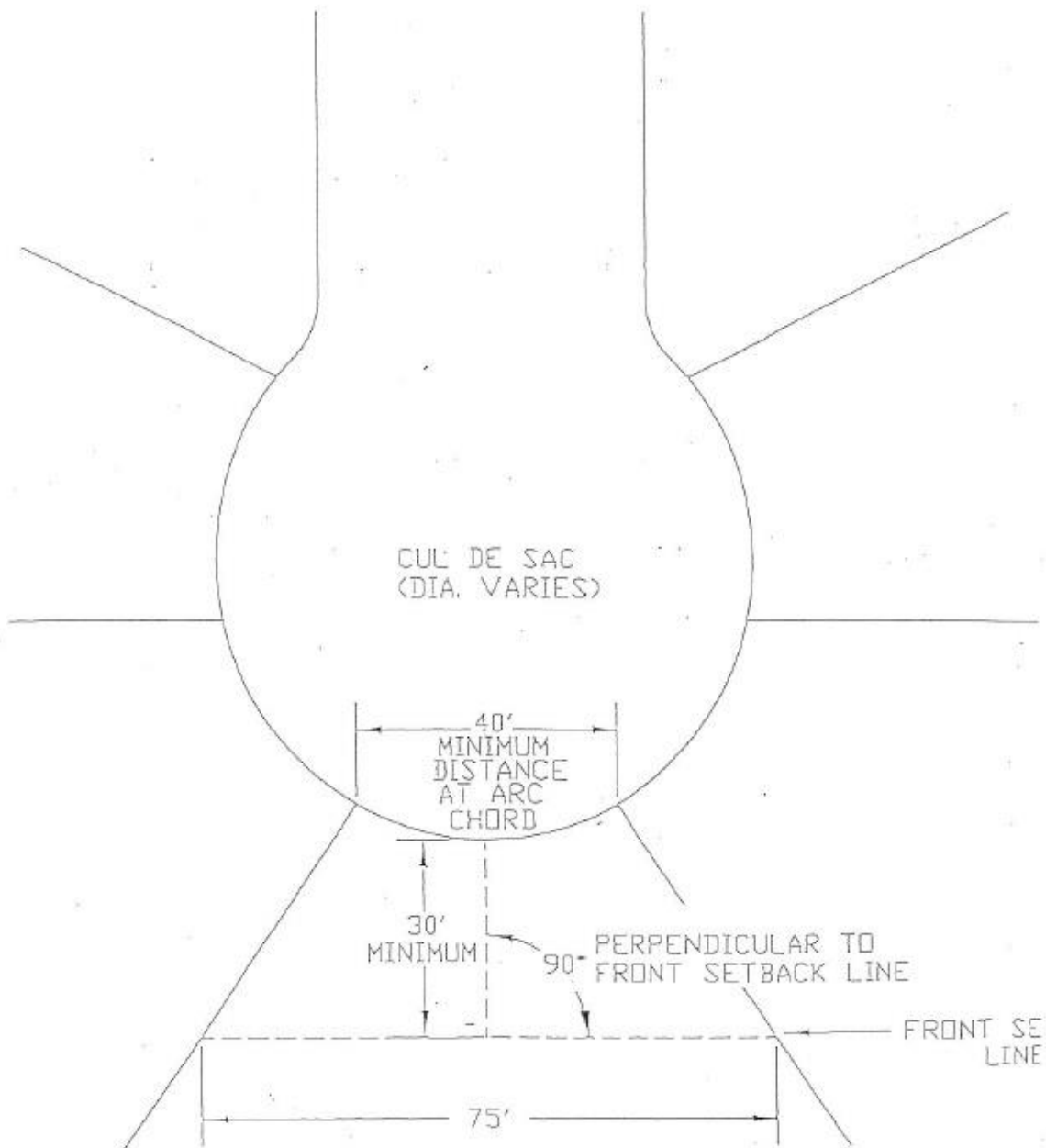
General Notes:

For the geographic area south of Alabama Highway 182, a waterfront lot is defined as having its seaward property line at mean high tide.

When considering maximum lot coverage, impervious surfaces are not included. Only that portion of the lot covered by the footprint(s) of a building(s), as herein defined, is to be considered. When considering beachfront lots, the entire lot, including that portion south of the Construction Control Line (CCL) north to the Mean High Tide Line (MHTL), is to be counted in calculating the lot's size.

Lots are allowed to be developed with frontage on a curve or cul-de-sac in the RS 1 District. Lots fronting on curves or cul-de-sacs must meet the minimum requirements illustrated in Figure 4.01.

FIGURE 4.01: CUL-DE-SAC LOTS



4.03 MINIMUM SETBACKS

TABLE 4.0301: MINIMUM SETBACKS						
Zoning District	SETBACK REGULATIONS			CORNER LOT SIDE SETBACKS		
	Front Yard	Rear Yard	Side Yard	Arterial	Collector	Local
RS-1	30'	20'	10'	30'	30'	10'
RS-2	30'	20'	10'	20'	20'	10' (2)
RS-3	30'	20'	10'	20'	20'	10'
RM-1	30'	30'	10'	30'	30'	10'
Cluster Home	30'	20'	5'	30'	30'	10'
Patio Home	30'	20'	5'	30'	30'	10'
Zero Lot Line	30'	20' (3)	5'	30'	30'	10'
RM-2	30'	30' (1)	10'	30'	30'	10'
Cluster Home	30'	20'	5'	30'	30'	10'
Patio Home	30'	20'	5'	30'	30'	10'
Zero Lot Line	30'	20'	5'	30'	30'	10'
MHP	See Article 6					
MHS	See Article 6					
BR-1	30'	30'	10' (1)	30'	30'	10'
BR-2	30'	30'	10' (1)	30'	30'	10'
NB	30'	30'	10'	30'	30'	10'
MR	30'	30'	10'	30'	30'	10'
GB	30'	30'	10' (1)	30'	30'	10'
RO (Rev. 05/20/2008)	30'	30'	10' (1)	30'	30'	10'
I-1	40'	40'	20'	30'	30'	20'
AG	30'	20'	10'	30'	30'	10'
GOV	30'	30'	10'	30'	30'	10'
PUD	See Article 7 (rev. 07/03/2007)					

- (1) Buildings of fifty (50) feet or less in height require a minimum ten (10) foot side yard setback (on each side) which must be of natural vegetation or landscaped. For every ten (10) feet of building height above fifty (50) feet, an additional two (2) feet shall be added to the setback requirements (on each side), and this setback must be of natural vegetation or landscaped. These side yard setbacks pertain to that area adjacent to the building footprint and do not apply to the entire length of property. **Vehicular use areas are permitted in the side yard setback as long as a five (5) foot landscaped buffer containing hedge materials is provided between the vehicular use area and the adjacent property.**
- (2) Any addition to a building must meet these setback requirements.
- (3) Density reduction required for Patio Home, Cluster Home and Zero Lot Line Home (Zero Lot Line: at least one side yard of ten (10) feet).

General Notes: (rev. 03/12/2019)

All other zoning district setbacks for corner lots apply.

A thirty (30) foot setback is required from the rights-of-way Orange Beach Boulevard (Alabama Highway 161), Canal Road (Alabama Highway 180) west of Sampson Avenue, and the Foley Beach Express.

A twenty (20) foot side yard setback is required from the right-of-way of Canal Road (Alabama Highway 180) east of Sampson Avenue.

TABLE 4.0302: MINIMUM SETBACKS IN THE BEACH OVERLAY DISTRICT						
Zoning District	SETBACK REGULATIONS			CORNER LOT SIDE SETBACKS		
	Front Yard	Rear Yard	Side Yard	Arterial	Collector	Local
RS-1-BOD	30'	20'	10'	30'	30'	10'
RS-2-BOD	30'	20'	10'	20'	20'	10'
RS-3-BOD	30'	20'	10'	20'	20'	10'
RM-1-BOD	25' (1)	30'	20' (2)(3)	30' (4)(5)	30' (4)	20' (2)(3)
Cluster Home	30'	20'	5'	30'	30'	10'
Patio Home	30'	20'	5'	30'	30'	10'
Zero Lot Line	30'	20'	5'	30'	30'	10'
RM-2-BOD	25' (1)	30'	20' (2)(3)	30' (4)(5)	30' (4)	20' (2)(3)
Cluster Home	30'	20'	5'	30'	30'	10'
Patio Home	30'	20'	5'	30'	30'	10'
Zero Lot Line	30'	20'	5'	30'	30'	10'
MHP-BOD	See Article 6					
MHS=BOD	See Article 6					
BR-1-BOD	25' (1)	30'	20' (2)(3)	30' (4)(5)	30' (4)	20' (2)(3)
BR-2-BOD	25' (1)	30'	20' (2)(3)	30' (4)(5)	30' (4)	20' (2)(3)
NB-BOD	25' (1)	30'	10'	30' (5)	30'	10'

TABLE 4.0302: MINIMUM SETBACKS IN THE BEACH OVERLAY DISTRICT						
Zoning District	SETBACK REGULATIONS			CORNER LOT SIDE SETBACKS		
	Front Yard	Rear Yard	Side Yard	Arterial	Collector	Local
GB-BOD	25' (1)	30'	20' (2)(3)	30' (4)(5)	30' (4)	20' (2)(3)
MR-BOD	25' (1)	30'	20' (2)(3)	30' (5)	30'	20' (2)(3)
RO-BOD (Rev. 05/20/2008)	25'	30'	10'	30' (5)	30'	20'
I-1-BOD	40'	40'	20'	30'	30'	20'
AG-BOD	30'	20'	10'	30'	30'	10'
GOV-BOD	25'	30'	20' (3)	30' (4)(5)	30' (4)	20' (3)
PUD-BOD	See Article 7 (rev. 07/03/2007)					

- (1) For structures greater than fifty (50) feet in height, located on the north side of Alabama Highway 182 and west of Highway 161, the required setback from the State Highway 182 right-of-way shall be equal to two (2) feet per one (1) feet of building height. For structures located on a corner lot or parcel without frontage on State Highway 182, located within the previously defined area, the front yard shall be oriented toward the State Highway 182 right-of-way. This setback requirement is an incremental setback, applied to the structure at the specific given height, the intent being an allowance and incentive for the "stepping in" of the building structure profile.
- (2) The minimum required setback for a single family dwelling or two family duplex shall be ten (10) feet, all other uses shall have a required setback equal to twenty (20) feet.
- (3) For each ten (10) feet of building height over one hundred (100) feet, the required setback shall be increased by two (2) feet. This setback requirement is an incremental setback, applied to the structure at the specific given height, the intent being an allowance and incentive for the "stepping in" of the building structure profile.
- (4) For each ten (10) feet of building height over one hundred fifty (150) feet, the required setback shall be increased by two (2) feet. This setback requirement is an incremental setback, applied to the structure at the specific given height, the intent being an allowance and incentive for the "stepping in" of the building structure profile.
- (5) On corner lots with street frontage on State Highway 182, the front yard shall be adjacent to Highway 182 and the intersecting street frontage shall be considered the corner yard. On those corner lots where there is a clear established pattern of one street having a front yard orientation that is contrary to this requirement, the Planning Commission may allow development to follow this pattern. The Planning Commission, in making this determination, shall consider the original subdivision plat design; existing and proposed structures on both the subject property and adjacent properties, with regard to their orientation toward the street(s); and whether the lot frontage involves unimproved street right-of-way.

General Notes:

The area between the mean high tide and the Coastal Construction Line (CCL) can serve as waterfront property's rear yard setback if the distance between mean high tide and the CCL is equal to or greater than the applicable required rear yard setback.

The minimum separation between residential condominium and hotel building towers, located on the same site, shall be equal to the sum of the applicable side setbacks that are required for each tower. This can be an incremental

separation requirement, applied to the structures at the specific given height, the intent being an allowance and incentive for the “stepping in” of the building structure profile.

4.04 MAXIMUM BUILDING HEIGHTS AND DWELLING UNITS PER ACRE

Except as provided for elsewhere in this Ordinance, the following building heights and dwelling units shall apply in the District as listed.

TABLE 4.0401: MAXIMUM BUILDING HEIGHTS AND DWELLING UNITS PER ACRE		
Zoning District	HEIGHT & DENSITY REGULATIONS	
	Maximum Height	Maximum Dwelling Units per Acre (not per lot)
RS-1	40'	Single-Family Dwelling or Two-Family Dwelling
RS-2	40'	Single-Family Dwelling
RS-3	40'	Single-Family Dwelling
RM-1	50' 50'	Single-Family Dwelling or Two-Family Dwelling Multi-Family Dwelling (See Table 4.0404)
RM-2	50' 140' / 14 stories, whichever is less	Single-Family Dwelling or Two-Family Dwelling Multi-Family Dwelling (See Table 4.0404)
NB	50' 30'	Single-Family Dwelling or Two-Family Dwelling Business
MR	50' 50' 50' 50'	Single-Family Dwelling or Two-Family Dwelling Business Multi-Family Dwelling (See Table 4.0404) Hotel (See Table 4.0404)
GB	50' 140' / 14 stories, whichever is less 140' / 14 stories, whichever is less 140' / 14 stories, whichever is less	Single-Family Dwelling or Two-Family Dwelling Multi-Family Dwelling (See Table 4.0404) Hotel (See Table 4.0404) Business
RO	50'	Business (rev. 05/20/2008)
I-1	No Limit	Not Applicable
AG	50' 50'	Single-Family Dwelling or Two-Family Dwelling Business
GOV	140' / 14 stories, whichever is less	Not Applicable
MHP	35'	All Allowable Uses – See Article 6
MHS	35'	All Allowable Uses – See Article 6

TABLE 4.0402: MAXIMUM BUILDING HEIGHTS AND DWELLING UNITS PER ACRE IN THE RESTRICTED HEIGHT OVERLAY DISTRICT ⁽¹⁾		
Zoning District	HEIGHT & DENSITY REGULATIONS	
	Maximum Height	Maximum Dwelling Units per Acre (not per lot)
RS-1-ROD	40'	Single-Family Dwelling or Two-Family Dwelling ⁽²⁾
RS-2-ROD	40'	Single-Family Dwelling
RS-3-ROD	40'	Single-Family Dwelling
RM-1-ROD	50' (Residential)	See Table 4.0404
RM-2-ROD	50' (Residential)	See Table 4.0404
NB-ROD	50' 30'	Single-Family Dwelling or Two-Family Dwelling Business
MR-ROD	50' (All Uses)	See Table 4.0404
GB-ROD	50' (All Uses)	See Table 4.0404
RO-ROD	50'	Business (rev. 05/20/2008)
I-1-ROD	50' (All Uses)	Not Applicable
AG-ROD	50' 50'	Single-Family Dwelling or Two-Family Dwelling Business
GOV-ROD	50' (All Uses)	Not Applicable
MHP-ROD	35' (All Uses)	See Article 6
MHS-ROD	35' (All Uses)	See Article 6
PUD	See Article 7 (rev. 07/03/2007)	

- (1) Except as otherwise provided in Section 4.0401, buildings and structures located in the zoning districts lying within the Restricted Height Overlay District shall not exceed the following requirements. (See definition of Restricted Height Overlay District in Article 3).
- (2) When permitted as a conditional use.

TABLE 4.0403: MAXIMUM BUILDING HEIGHTS AND DWELLING UNITS PER ACRE IN THE BEACH OVERLAY DISTRICT ⁽¹⁾		
Zoning District	HEIGHT & DENSITY REGULATIONS	
	Maximum Height	Maximum Dwelling Units per Acre (not per lot)
RS-1-BOD	50'	Single-Family Dwelling or Two-Family Dwelling
RS-2-BOD	50'	Single-Family Dwelling
RS-3-BOD	50'	Single-Family Dwelling
RM-1-BOD	50' 8 stories ⁽²⁾⁽³⁾	Single-Family Dwelling or Two-Family Dwelling See Table 4.0404
RM-2-BOD	50' 20 stories ⁽³⁾⁽⁴⁾	Single-Family Dwelling or Two-Family Dwelling See Table 4.0404
BR-1-BOD	50' 8 stories ⁽²⁾⁽⁴⁾ 8 stories ⁽²⁾⁽⁴⁾	Single-Family Dwelling or Two-Family Dwelling Multi-Family Dwelling – See Table 4.0404 Hotel – See Table 4.0404
BR-2-BOD	50' 20 stories ⁽³⁾⁽⁴⁾ 20 stories ⁽³⁾⁽⁴⁾	Single-Family Dwelling or Two-Family Dwelling Multi-Family Dwelling – See Table 4.0404 Hotel – See Table 4.0404
NB-BOD	50' 50'	Single-Family Dwelling or Two-Family Dwelling Business
MR-BOD	50' 50' 8 stories ⁽²⁾⁽⁴⁾ 8 stories ⁽²⁾⁽⁴⁾	Single-Family Dwelling or Two-Family Dwelling Business Multi-Family Dwelling – See Table 4.0404 Hotel – See Table 4.0404
GB-BOD	50' 20 stories ⁽³⁾⁽⁴⁾ 20 stories ⁽³⁾⁽⁴⁾ 20 stories ⁽³⁾⁽⁴⁾	Single-Family Dwelling or Two-Family Dwelling Business Multi-Family Dwelling – See Table 4.0404 Hotel – See Table 4.0404
RO-BOD	50'	Business (rev. 05/20/2008)
GOV-BOD	20 stories ⁽³⁾⁽⁴⁾	Not Applicable
MHP-BOD	35'	All Allowable Uses – See Article 6
MHS-BOD	35'	All Allowable Uses – See Article 6

- (1) With the exception of the area lying north of State Highway 182, south of Cotton Bayou, east of State Highway 161 and west of Perdido Pass, buildings and structures located in the zoning districts lying within the Beach Overlay District shall not exceed the following requirements.
- (2) Excluding up to three (3) stories of parking structure to be located entirely or partially under the building. Accessory uses as allowed by zoning district, proposed within the first three (3) stories of the parking structure, shall not exceed twenty-five percent (25%) of the total gross parking area of the parking structure located within the primary structure footprint. Otherwise, the exclusion of the parking structure from the maximum number of stories shall not apply. Parking structure floors containing residential units shall be included in and applied to the maximum allowable number of stories of the overall building structure.
- (3) Excluding up to five (5) stories of parking structure to be located entirely or partially under the building. Accessory uses as allowed by zoning district, proposed within the first five (5) stories of the parking structure, shall not exceed twenty-five percent (25%) of the total gross parking area of the parking structure

located within the primary structure footprint. Otherwise, the exclusion of the parking structure from the maximum number of stories shall not apply. Parking structure floors containing residential units shall be included in and applied to the maximum allowable number of stories of the overall building structure.

- (4) Buildings and structures within the area lying north of Highway 182, south of Cotton Bayou, east of Highway 161 and west of Perdido Pass, shall not exceed a maximum allowable height of fifty (50) feet.

4.0401 Density

- a. For residential condominium and hotel uses located along the beach front, a developer may propose to transfer to the City, a fifteen (15) foot (minimum) public beach access and receive an additional story above the maximum otherwise allowable. The Planning Commission shall determine whether such transfer is beneficial to the public interest along with the types of improvements to be provided. The improvements may include, but not be limited to, an eight (8) foot wide sidewalk, restroom facilities, bike racks, park benches, trash receptacles, drinking fountain and a boardwalk approved by the Alabama Department of Environmental Management (ADEM). The City may, but shall not be required to accept such public spaces and improvements. Any such transfer, at a minimum, shall be:
1. Fully accessible to the public;
 2. At no cost of acquisition; and
 3. By Deed of Conveyance and a Title Certificate or, at the request of the Director of Community Development, a commitment for a policy of title insurance issued by an insurance company authorized to do business in the State of Alabama, assuring unencumbered title for all lands proposed to be conveyed to the City.
- b. For the purpose of density calculations, a lodging room with a gross floor area of six hundred (600) square feet or less shall be considered as equivalent as one-half (0.50) of a dwelling unit. (rev. 02/17/2009)

TABLE 4.0404: DENSITY	
Building Height	Maximum Number of Dwelling Units per Acre
1 and 2 stories	16
3 stories	21
4 stories	28
5 stories	35
6 stories or more	42

4.05 BUFFERING BETWEEN USES

In order to reduce the impacts of a use of land on adjacent uses which are of significantly different character, buffers and screening shall be required in accordance with the following provisions of this section:

The Planning Commission may reduce the buffer requirement as long as an acceptable alternative method of compliance is provided.

a. Buffers Required

A buffer consists of a horizontal distance from a property line which may only be occupied by screening, drainage areas, utilities and landscaping materials. The required buffering distance between land uses on adjoining zoning lots is set forth in Table 4.05. Mechanical/air conditioning equipment, outdoor storage areas and parking areas shall not be located within the required buffers.

b. Screening Required

A wall/fence or screen planting strip is required.

1. Fence

A fence is required in the buffer as described in Table 4.05 below. It shall be six (6) feet in height. Retaining walls may serve in-lieu of a fence if approved by the Zoning Official. The fence or wall must be constructed with opaque materials.

2. Screen Planting Strip

If a screen planting strip is provided in the buffer zone, it shall be planted with materials of sufficient density and sufficient height (but in no case less than eight (8) feet at the time of planting and at all subsequent times) to afford protection to the more restrictive District from the glare of lights, blowing papers, dust and debris, visual encroachment, and to effectively reduce the transmission of noise. Screen planting shall be maintained in a clean and neat condition and in such a manner as to accomplish its purpose continuously.

c. Responsibility for Maintenance

Responsibility for maintenance and good repair of the buffer zone, including any wall, fence or screen planting shall be borne by the owners of the property. The Zoning Official may require, at any time, the construction of an authorized wall or fence, if for any reason the buffer zone fails to provide the protection mandated herein. The risk that the buffer zone does not, or will not, provide such protection shall be the responsibility of the real property owners, present or future.

TABLE 4.05: BUFFER AREAS REQUIRED BETWEEN LAND USES			
PROPOSED USE	ADJOINING USE		
	Low Impact	Medium Impact	High Impact
Low Impact	0'	0'	0'
Medium Impact	20'	0'	0'
High Impact	30'	20'	0'

Note: Numbers indicate width of buffer in feet.

For the purposes of establishing the buffering distance between land uses, the following shall be the designations for low, medium, and high impact uses:

1. **Low Impact:** One (1) and two (2) family dwellings, home occupation, vacant RS zoned land, agricultural use, park, golf course, golf driving range, timber growing, and temporary uses.
 2. **Medium Impact:** Bed and breakfast, church, college, college sorority/fraternity house, institution for children/aged, riding academy, school.
 3. **High Impact:** All other uses.
- d. Properties with higher and medium impact uses that abut a right-of-way and are located across from lower impact uses shall be buffered as follows: (rev. 01/05/2010)
1. Property lines along the front or main entrance of the building shall be landscaped according to the requirements of Article 16, Tree Protection and Landscaping, of this Ordinance.
 2. Property lines along the side or rear property lines where parking areas and/or buildings are located shall be buffered with a six (6) foot high solid, finished fence or masonry wall with hedge materials on the exterior side in compliance with Article 16.04, B. 1. a. (1) of this Ordinance or a landscape buffer as provided in Article 4.05, b. 2. of this Ordinance. This buffer does not apply to point of ingress and egress of driveways or pedestrian access ways.

4.0501 Construction of More Restrictive Uses in Less Restrictive Use Zones

If a contractor/developer/subdivider desires to construct more restrictive uses in a less restrictive zone (e.g., single family dwellings in General Business District), the developer/subdivider must provide buffer strips between the more restrictive use and the less restrictive use as if the uses were in two adjoining zoning districts.

4.06 ALABAMA HIGHWAY 180 FRONTAGE ROADWAY REQUIREMENT

Developers of property adjacent to and bordering Alabama Highway 180 from the intersection of Highway 161 and Highway 180 west to the Orange Beach city limits on the north and south sides of Highway 180 shall construct a twenty (20) foot wide frontage roadway in the center of a forty (40) foot wide right of way contiguous to the highway rights of way; this forty (40) foot wide right of way shall be dedicated to the Municipality after the roadway construction. This frontage roadway shall have limited access to the Alabama highway. All developments on Highway 180 west of Highway 161, with the exception of the entire south side of Highway 180 and the area on the north side of Highway 180 from Highway 161 west to Oak Street and west of Public Works Road to the west city limit line and single family dwellings, shall be required to provide a frontage road, or provide a bond for the construction of such roadway in the future.

4.07 MAXIMUM AND MINIMUM PRINCIPAL BUILDING SIZE (rev. 08/02/2011)

4.0701 Purpose

To insure quality development in Orange Beach, no building shall be built hereafter for residential, commercial or industrial purposes unless it meets the floor area requirements specified in Section 4.07.

4.0702 Minimum Floor Area for Commercial and Industrial Buildings

The minimum size of commercial and industrial buildings in all zoning districts shall not be less than one thousand (1,000) square feet of enclosed heated floor space. This shall also include restrooms.

4.0703 Maximum Floor Area for Commercial and Industrial Buildings

The maximum size of commercial and industrial buildings in all zoning districts shall not exceed sixty thousand (60,000) square feet of enclosed and heated floor space and shall include restrooms except within the area north of State Highway 180 (Canal Road) to the northern city limits and west of State Highway 161 (Orange Beach Blvd.) and south of State Highway 180 (Canal Road) to Marina Road extended west to the Orange Beach city limits.

4.0704 Interpretation of Gross Living Area

Gross living area is defined as the portion of the residential dwelling which has ceiling, walls and floors finished in a manner which is clearly intended for human occupancy, insulated and heated and cooled, and conforming to state and national building codes for residential occupancy.

Gross living area shall not include screened porches, verandahs, garages, patios, breezeways and terraces, basements, closets not opening to the interior of the dwelling, and rooms intended for heating and mechanical equipment.

Gross living area shall be computed by using the outside of the exterior walls (those exposed to the weather) that enclose the living area.

4.0705 Minimum Gross Living Area for Single-Family Dwellings

Single-Family Dwellings located on lots with minimum lot widths less than seventy-five (75) feet shall contain a minimum of eight hundred seventy-five (875) square feet of gross living area.

Single-Family Dwellings located on lots with minimum lot widths seventy-five (75) feet or more shall contain a minimum of one thousand twenty-five (1,025) square feet of gross living area.

4.0706 Minimum Gross Living Area for Two-Family Dwellings

Two-Family Dwellings or Duplexes shall contain a minimum of eight hundred seventy-five (875) square feet of gross living area for each unit within the structure.

4.0707 Minimum Gross Living Area for Multi-Family Structures

Any building containing three (3) units or more shall be considered a multi-family structure and each unit within the structure shall contain a minimum of five hundred (500) square feet of gross living area.

4.0708 Minimum Room Size for Lodging Rooms within Hotels and Motels

A hotel or motel is any establishment where sleeping or sleeping and eating accommodations are advertised or held out to be available to transients, whether such establishment be known as a hotel, apartment hotel, inn, tavern, club, resort, tourist home, tourist court, motel, court, motel court, motor lodge or by other like term and regardless of the number of lodging rooms, suites, or cabins available, but this term shall not be construed to include apartments, clubs, trailer courts, boarding houses, rooming houses or portions thereof where single night accommodations are not advertised or held out to be advertised.

Each lodging room within a hotel or motel shall have a minimum room size of three hundred (300) square feet including bath, closets, etc.

**ARTICLE 5
SUPPLEMENTARY REGULATIONS**

(rev. 04/03/2018 unless otherwise noted)

- 5.01 INTERSECTION VISIBILITY**
 - 5.02 YARD REGULATIONS**
 - 5.03 FENCES AND HEDGES**
 - 5.04 ACCESSORY STRUCTURES AND/OR BUILDINGS**
 - 5.05 HEIGHT REGULATIONS**
 - 5.06 NUMBER OF PRINCIPAL BUILDINGS ON LOT**
 - 5.07 REQUIRED YARDS NOT TO BE USED BY ANOTHER BUILDING**
 - 5.08 STREET ACCESS AND IDENTIFICATION**
 - 5.09 SERVICE STATIONS**
 - 5.10 TOWNHOUSES**
 - 5.11 AGRICULTURE AND RELATED USES**
 - 5.12 NONCONFORMING USES AND STRUCTURES**
 - 5.13 HOME OCCUPATIONS**
 - 5.14 SATELLITE RECEIVING DISHES AND ANTENNEA**
 - 5.15 WATER SUPPLY AND FIRE HYDRANTS**
 - 5.16 RECREATIONAL VEHICLES AND BOATS AS RESIDENCES**
 - 5.17 EXCAVATION OF MATERIALS**
 - 5.18 REGULATION OF PEDDLERS, PALM READERS, AND FLEA MARKETS**
 - 5.19 PIERS, DECKS, AND PIER/BOAT HOUSES**
 - 5.20 ROTORCRAFT SIGHTSEEING BUSINESS**
 - 5.21 OPEN-AIR RESTAURANTS AND LOUNGES**
 - 5.22 OPEN-AIR MARKETS**
 - 5.23 PEDESTRIAN OVERPASSES**
 - 5.24 VEHICULAR SALES**
 - 5.25 LIQUOR STORES, PACKAGE STORES, AND ALCOHOLIC BEVERAGE RETAILERS**
 - 5.26 BODY-PIERCING STUDIOS, NON-CHARTERED FINANCIAL INSTITUTIONS, PALM READERS, PAWN SHOPS, TATTOO PARLORS**
 - 5.27 VACATION RENTALS**
-

5.01 INTERSECTION VISIBILITY

No planting shall be maintained and no fence, building, wall or other structure shall be constructed after the effective date of this Ordinance at all street intersections, if such planting or structure thereby obstructs vision at any point over a height of three (3) feet above the established grade of the street at the property line within a triangle formed by the street lot lines of such lot and a line drawn between the point along such street lot lines thirty (30) foot distant from their point of intersection.

5.02 YARD REGULATIONS

5.0201 Projections into Yards

5.020101 Residential Uses in all Districts

Any projection attached to the primary structure that encroaches into the required setback, e.g., window air conditioners, bay windows, porches, balconies, eaves, decks (covered and uncovered), awnings or other coverings, may only do so to a maximum of twenty percent (20%) of the minimum required setback listed in Table 4.03, Minimum Setbacks.

Stairways and associated landings and roof eaves/overhangs, attached or elevated support decks for air conditioning units, and non-enclosed mechanical and hydraulic platforms may encroach into the minimum required side setback listed in Table 4.03, Minimum Setbacks, to a maximum of four (4) feet. Enclosed stairways or elevators attached to the primary structure would be subject to the twenty percent (20%) encroachment limit. (rev. 04/01/2014)

5.0202 Official Street Line

Where an official line has been established for the future widening or opening of a street upon which a lot abuts, such official line shall be considered as the property line.

5.0203 Double Frontage

On double frontage (not corner lots) lots, the required front yard shall be provided on each street except where a note appears on a recorded plat restricting access to one of the abutting streets; in such case the required rear yard shall be the minimum as required by the applicable zoning district.

5.03 FENCES AND HEDGES

All fences or hedges within the required yard areas shall conform to the following regulations except where special requirements are set forth for specific screening purposes elsewhere in this Ordinance or where modifications are required to meet the requirements of other Sections of this Ordinance. Fences and walls are not accessory structures. Fences and walls may be constructed on any lot whether or not there is a principal structure located on the lot

5.0301 Front Yards

To ensure maximum sight distance along all roadways within the City, all walls and fences within a required front setback shall not exceed four (4) feet in height, except walls and fences of greater height may be permitted to enclose garbage and trash receptacles and above-ground components of a public utility system, provided the Zoning Official determines that:

- a. The area enclosed and the height of walls and fences are the minimum necessary to screen such facilities from view;
- b. It is not practical to locate such facilities in locations other than in a required front yard;

- c. The encroachment of such walls and fences onto a required front yard is the minimum necessary;
- d. The materials used, and the method of construction for such walls or fences meet all standards prescribed by the City of Orange Beach;
- e. The maximum height of any wall or fence used for the enclosure of such facilities is the minimum necessary and in no case shall the height exceed six (6) feet; and
- f. In the case of screening trash receptacles, no trash, garbage, empty boxes or other containers, may be stored outside the fenced area.

5.0302 Side and Rear Yards

All fences within the required side or rear yards shall not exceed six (6) feet in height. A street corner side yard shall be considered a front yard for these purposes, and shall conform to the requirements stated for a front yard.

5.0303 Screens for Garbage and Trash Receptacles

A six (6) foot high fence shall be required to screen garbage and trash receptacles/containers for businesses, industrial, PUDs and multi-family developments from public view. The fence shall be constructed on at least three (3) sides of the receptacles with any non-constructed opening away from the primary line of sight. No trash or garbage, including empty boxes and other containers, may be stored outside of this fenced area.

5.0304 Prohibited Fences (rev. 11/01/2016)

- A. Fences equipped with concertina wire, barbed tape, barbed wire, razor wire, or similar devices are prohibited with the exception of site securement of the following land uses:
 - 1. Municipal facilities
 - 2. Agriculture and related farming operations, excluding timber growing and harvesting
 - 3. Livestock and poultry raising
 - 4. Natural resource production, including the extraction of oil, gas and water
 - 5. Public utility production and maintenance facilities
 - 6. Public utility substations
 - 7. Water storage facilities
 - 8. Water pumping station

B. Warning Signs

Concertina wire, barbed tape, barbed wire, razor wire, or similar devices shall be clearly identified with minimum twelve (12) inch by twelve (12) inch warning signs on both the inside and outside of fence. The signs shall read *Danger – Barbed Wire* or *Danger – Razor Wire* in English, at intervals of not greater than fifty (50) feet.

5.0305 Post and Supporting Members (rev. 07/15/2017)

Fences shall be installed with the finished side facing the adjoining property or public or private right-of-way. Fence posts must be located on the inside of the fence facing the property on which the fence is located. Posts and supporting members may be viewable if the fence has a shadowbox design or uses panels across the front and back to give the fence a finished appearance on both sides. Fence composed entirely of fence posts and incomplete fences consisting only of posts and supporting members shall be prohibited.

5.04 ACCESSORY STRUCTURES AND/OR BUILDINGS (rev. 07/07/2015)

5.0401 Definitions

The following words, phrases, and its derivations, as used herein, shall have the meanings ascribed to it, except where the context clearly indicates a different meaning.

a. Accessory Structure is a subordinate structure that is detached from but on the same lot as the principal structure, and the use of which is (1) reasonably necessary to the use of the principal structure; (2) subordinate to the principal structure; and (3) does not change or alter the character of the premises. Accessory structures may be classified in one of the following categories:

- 1. Detached accessory structures** are storage buildings, detached garages, carports, wood sheds, tool sheds, gazebos, non-commercial greenhouses, workshops, and similar structures.
- 2. Marine accessory structures** are boathouses located over water, piers, docks, boat ramps, boat slips, and similar structures.
- 3. Pool accessory structures** are pool houses and cabanas.

Parking areas, driveways, fire hydrants, mailboxes, trash containers/receptacles, telephone and other utility poles, bulkheads, and fences are not accessory structures.

b. Accessory Use is the use of land, a detached structure or building, or portion thereof customarily incidental and subordinate to the principal use of the land, structure or building and located on the same lot with the principal use.

All accessory structures and uses are subject to the requirements of this Ordinance.

5.0402 Number of Accessory Structures on Lot

Only one (1) principal structure and one (1) detached accessory structure may be erected on any lot located in the RS zoning district, unless otherwise specified by Section 5.0601 of this Ordinance. In addition to the principal structure and detached

accessory structure, a lot in the RS zoning district may also contain marine accessory structures and one (1) pool accessory structure.

No accessory structure shall be used as a dwelling unit.

5.0403 Location on Lot

Accessory structures are permitted in the side or rear yard. Accessory structures may be permitted in the front yard if the distance between the accessory structure and the required front setback line is a minimum of one hundred (100) feet.

5.0404 Maximum Area

The combined square footage of the detached accessory structure and pool accessory structure shall not exceed thirty percent (30%) of the yard area in which it is located or seventy-five percent (75%) of the square footage of the principal structure, whichever is less.

The combined square footage for maximum area does not include the square footage of the marine accessory structures.

5.0405 Maximum Height

Detached accessory structures and pool accessory structures are limited to a maximum height of twenty (20) feet. Marine accessory structures are excluded from the height limit.

5.0406 Setbacks

Detached accessory structure or pool accessory structures with a square footage equal to or less than one hundred (100) square feet shall be located a minimum of five (5) feet from any rear or side lot line. Detached accessory structures or pool accessory structures with a square footage exceeding one hundred (100) square feet and equal to or less than four hundred (400) square feet shall be located a minimum of ten (10) feet from any rear or side lot line. Detached accessory structures or pool accessory structures with a square footage exceeding four hundred (400) square feet shall have the same minimum setback requirements listed in Section 4.03 of this Ordinance for the principal structure. Marine accessory structures are excluded from the setback requirements.

Detached accessory structures or pool accessory structures with a maximum height of ten (10) feet or less shall be located a minimum of ten (10) feet from any rear or side lot line. Detached accessory structures or pool accessory structures with a maximum height exceeding ten (10) feet shall have the same minimum setback requirements listed in Section 4.03 of this Ordinance for the principal structure.

When accessory structures are located in the front yard, the accessory structures shall be located a minimum of one hundred (100) feet from the required front setback line for the principal structure.

5.0407 Separation between Principal and Accessory Structures

Accessory structures shall be located no closer than five (5) feet from the principal structure.

5.0408 Utilities

There shall be one (1) power meter to service the principal structure and accessory structures. The Building Official may authorize requests for additional power meters if the property owner can provide evidence to justify the need for such.

5.0409 Portable Buildings

Portable buildings affiliated with new construction may be permitted after receipt of a building permit issued by the Orange Beach Building Official. No portable building shall be permitted on any parcel of land except upon the approval of a temporary permit by City Council. Residential storage buildings are exempted from this requirement.

5.0410 Temporary Storage Containers (rev. 09/05/2017)

- a. Definition.** A temporary storage container is any box-like container transported by truck or trailer to a designated location for the limited purpose of loading and unloading contents. Such containers may include cargo containers and PODS (portable on-demand storage) and are intended for the temporary storage of household goods on residential properties and business specific goods on commercial properties. Such containers shall not be permanent, shall not be considered a building, and shall not be connected to any utilities.
- b. Permit.** A Temporary Storage Container Permit shall be required prior to placing a temporary storage container on private property. An application for Temporary Storage Container Permit shall be made to the Community Development Department on forms prescribed by the Department. The application shall include a description of the type of container and the general location of the placement. A permit fee will be required at the time of permit issuance.
- c. Number and Time Period.** For single-family dwellings, duplexes, and Planned Unit Developments containing single-family dwellings or duplexes, no more than one (1) temporary storage container shall be permitted for a period of forty-five (45) days.

For multi-family residential and commercial properties, multiple temporary storage containers may be permitted and shall be allowed for a period of ninety (90) days.

- d. Time Extension.** A property owner may request a time extension on the placement of a temporary storage container, provided the property owner can demonstrate that extenuating circumstances exist to justify the extension.

- e. **Placement or Location.** Temporary storage containers shall be setback a minimum of ten (10) feet from the front property line and shall not encroach on public property or public or private right-of-way. Temporary storage containers are prohibited on vacant lots.
- f. **Exception.** A Temporary Storage Container Permit will not be required if a storage container is to remain on the site for a period equal to or less than ten (10) consecutive days.

For multi-family residential and commercial properties, temporary storage containers shall not be placed in required parking spaces or in required landscaped areas unless approved as a condition of the permit.

5.0411 Time of Construction

No accessory structure shall be constructed upon a lot until the building permit for the principal structure to which it is accessory has been acquired.

5.0412 Removal of Accessory Structure

If the principal structure is destroyed or removed, the accessory structure and use shall no longer be allowed, unless a building permit for the principal structure is issued within one (1) year. City Council may grant a time extension on an existing conforming accessory structure should the accessory structure become nonconforming after the effective date of this Ordinance. The length of the extension is at the discretion of City Council.

A nonconforming accessory structure existing before the effective date of this Ordinance may remain but shall not be enlarged, extended or replaced, except in strict compliance with all requirements of this Ordinance.

5.05 HEIGHT REGULATIONS

The height regulations as prescribed in this Ordinance, including the height restrictions of the Overlay Districts, shall not apply to the following structures and structural elements: belfries, chimneys, church steeples or spires, cooling towers, elevator bulkheads, fire towers, flag poles, tanks, water towers, mechanical equipment rooms not exceeding ten percent (10%) of roof area and not exceeding height regulations by more than ten (10) feet, one (1) television antenna per principal structure not exceeding height regulations by more than ten (10) feet; provided, however, that no sign, nameplate, display or advertising device of any kind whatsoever shall be inscribed upon or attached to any antenna, tower or other structure which exceeds above the roof of the principal structure or height regulations. The height regulations as prescribed in this Ordinance, including the height restrictions of Overlay Districts, shall not apply to publicly owned or operated facilities, nor to telecommunications towers as provided for in the City's Wireless Telecommunications Facilities Ordinance.

5.06 NUMBER OF PRINCIPAL BUILDINGS ON LOT

5.0601 Number

Only one (1) principal residential building may be erected on any lot located within an RS zoning district. If a lot has a minimum of seventy-five (75) feet of road frontage and at least twenty-six thousand two hundred fifty (26,250) square feet, two (2) principal single-family structures or one (1) principal duplex with conditional use approval in accordance with this Ordinance may be constructed. No lot may have a density to exceed two (2) residential units, single family or duplex. The number of accessory structures for each residential unit shall comply with Section 5.04 of this Ordinance. (rev. 07/07/2015)

5.0602 Space between Buildings

On any lot where more than one (1) principal building is allowed, the space between buildings shall not be less than:

- Thirty (30) feet between two (2) rear walls (except in PUD or MR districts);
- Forty (40) feet between a front and a rear/side wall (except in PUD or MR districts);
- Fifty (50) between two (2) front walls (except in PUD or MR districts);
- Twenty (20) feet between two (2) side walls (except in PUD or MR districts);
- Twenty (20) feet between a side and a rear wall (except in PUD or MR districts).

Buildings of three (3) or less stories in height require a minimum distance of twenty (20) feet between two (2) buildings on the same lot. For every floor over three (3) floors, an additional two (2) feet shall be added to this distance requirement (except in PUD or MR districts).

5.0603 Definitions

For the purposes of this Section, a principal building is enclosed by a continuous wall on all sides. Joining two (2) principal single family or duplex buildings with a walkway which is open on one (1) or more sides is permitted only when the two (2) opposite walls joined by such walkway are separated by spaces required by this Section. Accessory structures may only be joined to a principal structure if the joining does not create a non-conformity. Commercial and industrially zoned buildings may be not joined under this Section.

5.07 REQUIRED YARDS NOT TO BE USED BY ANOTHER BUILDING

The minimum yards or other open spaces required by this Ordinance for each and every building hereafter erected, moved or structurally altered shall not be encroached upon or considered to meet the yard or open space requirements of any other building except as provided elsewhere in this Ordinance.

5.08 STREET ACCESS AND IDENTIFICATION

5.0801

No building shall be erected on a lot, which does not abut a public street or a minimum twenty-four (24) foot width permanent access easement.

5.0802

It shall be unlawful to name, place identification, re-name, change identification or otherwise cause any street, access, easement or other way to be identified by any means which has not been expressly approved by the Orange Beach City Council, except when the Planning Commission approves the names of streets that are submitted as part of a subdivision plat. A request for a name change to an existing named street, easement or other access way whether public or private on which building or house numbers have been issued, shall be submitted to the Department of Community Development. After review by the various City departments to ensure there is no duplication or inconsistencies, the request will be forwarded to the City Council for their consideration.

5.09 SERVICE STATIONS

5.0901 Location of Exits and Entrances

Entrances and exits for vehicles to and from gasoline service stations shall not be closer than twenty (20) feet to an intersection of street right-of-way lines.

5.0902 Lot Size

Gasoline service stations shall be located on a lot not less than twenty thousand (20,000) square feet and have a minimum frontage of one hundred (100) feet.

5.0903 Location of Oil Drainage Pits and Hydraulic Lifts

All oil drainage pits and hydraulic lifts shall be located within an enclosed structure and shall be located no closer than fifty (50) feet to an abutting residential district lot line and no closer than twenty-five (25) feet to any other lot line.

5.0904 Mechanical Repair

All permitted mechanical repair work shall be conducted within an enclosed structure and shall be located no closer than fifty (50) feet to any abutting residential district lot line and no closer than twenty-five (25) feet to any other lot line.

5.0905 Gasoline Pumps

Gasoline service stations shall have their gasoline pumps, including other service facilities, set back at least twenty (20) feet from any front lot line and thirty (30) feet from any other lot line.

5.0906 Storage of Vehicles

No storage of vehicles shall be permitted for periods in excess of thirty (30) days.

5.0907 Prior Operation Requirements

Prior to obtaining a building permit, such service station business shall provide a copy of the underground tank approval from the Alabama Department of Environmental Management to the Department of Community Development which shall be forwarded to the Fire Department.

5.10 TOWNHOUSES

A single building townhouse is permitted in all districts permitting multi-family housing and shall conform to all regulations of the district in which it is located unless specifically exempted by this Section. The following general set of standards shall be used by the City in reviewing plans for such development:

- A.** No less than two (2) nor more than six (6) townhouses shall be located within a continuous building group and no interconnection or overlapping between building groups shall be less than that required for individual multi family structures otherwise stated in this Ordinance. Side yard requirements for the district in which townhouses are located will be waived so that individual housing units within a group can share common walls; however, no building group shall be nearer to the side lines of the overall lot than the required side yard setback for the district in which the townhouse development is located, and the distances between townhouse groups shall conform to the side yard setbacks.
- B.** The design of townhouse developments must provide for internal traffic circulation and appropriate access for service and emergency vehicles.
- C.** Townhouse developments shall comply with one (1) of the following methods of land transfer and ownership:
 - 1.** The subdivision of the whole tract into individual parcels in accordance with this Ordinance, together with the platting of the property for record in accordance with the City's Subdivision Regulations; or
 - 2.** Providing for the development of the entire tract in accordance with this Ordinance, retaining, however, title to all the lands in the name of the condominium owners, and providing for all other usual condominium documents and procedures; or
 - 3.** Providing for the development of the entire tract in accordance with this Ordinance, retaining, however, title to all the lands in a single ownership by

recording a duly executed declaration of restrictions in the office of the Baldwin County Probate Judge, thereby stipulating that said tract shall not be eligible for further subdivision.

5.11 AGRICULTURE AND RELATED USES

Agriculture and related uses are permitted by right in AG on any size parcel, and by right in RS 1, RS 2, AG and I-1 Districts on parcels containing three (3) acres or more subject to the following conditions:

- A.** Land used for agricultural purposes including farming, horticulture, truck gardens and commercial nurseries and the sale of products raised on the premises, provided processing of such products for sale shall be limited to sorting and grading, and shall not include cooking, canning, juice manufacture or slaughtering and cleaning of animals or poultry;
- B.** Establishments for housing and treatment of domestic animals, provided that any treatment rooms, cages, pens or kennels be maintained in such a way as to produce no objectionable odors outside its walls;
- C.** Private or commercial stables; and
- D.** Incidental accessory uses including sheds, barns and facilities for packing and storing agriculture products.

No farm animals may be kept on parcels smaller than three (3) acres.

This Section is not intended to restrict small private gardens maintained by private property owners.

5.12 NONCONFORMING USES AND STRUCTURES

5.1201 Intent

Within the City of Orange Beach there exist land, lots, buildings, and structures, and uses of land, lots, buildings and structures, which were lawful before the time of passage of this Zoning Ordinance, but which are now prohibited or restricted. It is the intent of this Zoning Ordinance to permit these nonconformity's to continue unless they are destroyed 50% or more and/or they are removed in accordance with the provisions contained herein, provided that during that time the nonconformity shall not be enlarged, expanded, extended, or intensified, nor be used as a basis for adding any other structures or uses prohibited within a district.

Any conforming use, structure or lot legally existing under the provisions of this chapter shall not be rendered nonconforming by action of the City, County, or State of Alabama in the acquisition of property for street or drainage right-of-way.

5.1202 Nonconforming Use of Land

In any district where land is being used in a nonconforming manner and such use is the primary or main use to the main use conducted in a building, such use shall be discontinued if:

- a. The nonconforming use is vacated or abandoned, or
- b. The nonconforming use is not used for a continuous period of one hundred eighty (180) days whether or not any structures, equipment or fixtures are removed.

Such nonconforming use shall not be enlarged, expanded, extended or intensified either on the same or adjoining property.

5.1203 Nonconforming Uses of Buildings and Structures

A nonconforming use of a building or structure, or of a building or structure and land in combination, existing at the effective date of this Ordinance which would not be allowed in the district where it is located under the provisions of this Ordinance, may be continued subject to the following limitations:

- a. Existing buildings or structures devoted to a use not permitted in the district in which it is located shall not be enlarged, expanded, extended, moved or structurally altered, except in changing the use of the building or structure to a use permitted in the district, subject to the following exceptions:
 - 1. Repairs to a nonconforming use building or structure which in conjunction with any prior repairs do not amount to a substantial reconstruction or structural alteration (fifty percent (50%) of value of building or structure only, not including land, as determined by the City Building Official);
 - 2. Minor alterations within the perimeter of the building or structure;
 - 3. The fencing in or screening of a nonconforming building or structure for the purposes of security, safety, reduced liability, or improved appearance, as long as such fence or screening is the minimum reasonably necessary for such purpose and complies with the requirements of this Ordinance.
- b. If the use of the building or structure or part of such building or structure which is nonconforming under the provisions of this Ordinance, is changed in any manner, then the use must be changed to one permitted within the district.
- c. There may be a change of tenant, ownership or management of a nonconforming use, provided there is no change in the nature, character, size or intensity of such nonconforming use.
- d. When a nonconforming use of a building or structure, or a building or structure and land in combination, is discontinued, or such building is vacated or abandoned, or not used for a continuous period of one hundred eighty (180) days, whether or not the equipment or fixtures are removed, such building or structure, or building or

structure and land in combination, shall not thereafter be used for any nonconforming use.

- e. A nonconforming use of a building or structure, or building or structure and land in combination, shall be discontinued, and shall thereafter be required to comply with the provisions of this Ordinance, if the building or structure or that portion of a building or structure in which such use is exclusively located is damaged or destroyed by any cause whatever to the extent of fifty percent (50%) or more of the value as determined by the City Building Official; provided further that such building or structure shall not be rebuilt or restored except in conformity with the provisions of this Ordinance.

5.1204 Expansion of a Nonconforming Building

A building or structure which is nonconforming due to noncompliance with design requirements (such as setback, height, etc.) of this Ordinance may be enlarged, expanded, altered, or extended subject to the following:

- a. The addition, enlargement, expansion or alteration shall be limited to that portion of the building or structure which is in compliance with the design requirements (setback, height, etc.) of this Ordinance.
- b. The addition, enlargement, expansion or alteration shall be required to comply with the current design requirements of this Ordinance and shall not increase, expand, enlarge, extend or alter the existing nonconformity of the building/structure.

5.1205 Nonconforming Mobile Homes

Nonconforming mobile homes existing in any residential district prior to the adoption of this Ordinance may remain, provided that:

- a. It does not remain idle or unused or is vacant or abandoned for a continuous period of one hundred eighty (180) days, whether or not fixtures or equipment are removed; if such mobile home is idle, unused, vacant or abandoned for such period of time, it shall be removed and shall not be replaced; and
- b. Any mobile home that is damaged or destroyed by any cause whatever to the extent of fifty percent (50%) or more of the value of the mobile home, as determined by the City Building Official, shall not be repaired, restored or replaced.

Nonconforming mobile homes existing in any zoning district prior to the adoption of this Ordinance may remain. Mobile homes removed for any purpose shall not be reestablished. An existing mobile home shall not be replaced with a new one, except in a designated and zoned MHP/MHS district and which meets all the requirements of that district.

5.1206 Nonconforming Hotels and Multi-family Residences

Nonconforming structures existing prior to the adoption of this Ordinance may remain that any structure that is damaged or destroyed by any cause whatever to the extent fifty percent (50%) or more of its value, as determined by the City Building Official, shall not be repaired, restored or replaced in its nonconforming configuration.

5.1207 Administration

The determination of nonconforming use shall be a question of fact and shall be made by the Zoning Official. In the event that a challenge is raised or in case of doubt, the question shall be referred to the Board of Adjustment for determination after public notice and hearing in accordance with the Rules of the Board.

5.13 HOME OCCUPATIONS

5.1301 General Restrictions

Home occupations shall be clearly incidental to the residential character of the dwelling and shall not change the essential residential character of the dwelling or adversely affect the uses permitted in the district of which it is a part. No home occupation shall be permitted which might interfere with the general welfare of the surrounding residential area due to potential noise, increased pedestrian and vehicular traffic or any other conditions which would constitute an objectionable use of residentially zoned property. No more than one (1) home occupation is permitted in a residential dwelling.

5.1302 Limitations on Home Occupations

- a. Area used for a home occupation(s) shall not exceed twenty-five percent (25%) of the gross floor area of the residence.
- b. The home occupation(s) shall be confined entirely to the principal building.
- c. Employment shall be limited to members of the family owning and residing in the dwelling, and there shall be no other employees.
- d. No internal or external addition, alteration or remodeling of the dwelling is permitted in connection with the home occupation(s).
- e. Chemical, mechanical or electrical equipment that creates odors, light, glare, noises, or interference in radio or television reception detectable outside of the dwelling shall be prohibited.
- f. No display of products shall be visible from the street and only articles made on the premises may be sold; except that non-durable articles (consumable products) that are incidental to a service, which service shall be the principal use in the home occupation, may be sold within the premises.
- g. Instruction in music, dancing and similar subjects shall be limited to a maximum of two students at a time.

- h. The activity carried on, as a home occupation shall be limited to the hours between 7:00 a.m. and 7:00 p.m.
- i. All signs must be in compliance with the Sign Ordinance of the City.
- j. Automobile parking for the home occupation must be completely contained within the Property; no on street parking will be allowed.
- k. Customary home occupations shall not include the following:
 - 1. Uses which do not meet the above listed provisions;
 - 2. Automobile and/or body and fender repairing;
 - 3. Multi-chair barber shops and beauty parlors;
 - 4. Food handling, processing or packing;
 - 5. Repair, manufacturing and processing uses; however, this shall not exclude the home occupation of a dressmaker where goods are not manufactured for stock, sale or distribution;
 - 6. Restaurants;
 - 7. Uses which entail the harboring, training, raising or treatments of dogs, cats, birds or other animals;
 - 8. Palmistry and other fortune telling activities.
 - 9. Dance studios;
 - 10. Nursery schools;
 - 11. Restaurants.

5.1303 Charter Boat Fishing and Charter Vessels as a Home Occupation

Charter boat fishing and charter vessels are allowed as a home occupation under the following exceptions to those aforementioned requirements:

- a. No more than two (2) persons other than the immediate family are employed in the business

5.14 SATELLITE RECEIVING DISHES AND ANTENNAE

5.1401 Satellite Receiving Dishes

Satellite receiving dishes are permitted accessory uses in any district, provided they comply with the setback, height, and other standards of this Ordinance. In any district, the dish antenna shall be located to the rear of the front building line and must be setback ten (10) feet from any interior or rear lot line. Special setbacks indicated herein apply on corner lots. The dish antenna together with the principal building and accessory building may not exceed the maximum lot coverage permitted in the district in which it is located. In residential districts where the antenna is detached from the main building, its maximum height may not exceed fifteen (15) feet. Installation and construction must also comply with the building code. No form of advertising or identification is allowed on the dish or framework other than manufacturer's small identification plates.

5.1402 Antennae

Antennae and radio tower installations are not included in the determination of building heights.

5.1403 Telecommunication Towers and Antennae

(repealed by Ordinance No. 2002-670)

5.15 WATER SUPPLY AND FIRE HYDRANTS

5.1501 Requirements

No shopping center, commercial, residential, or multi-family development shall be constructed or developed within the City of Orange Beach unless each structure is served by fire hydrants installed in accordance with the following requirements.

5.150101 Specification

Fire hydrants must conform to specifications for National Standard Fire Hydrants for ordinary water works service of the American Water Works Association (AWWA).

5.150102 Installation

Fire hydrants must be installed in accordance with the National Fire Protection Association standards. The barrel of the fire hydrant shall be perpendicular with the ground with the lowest discharge not less than fifteen (15) inches above grade, and the large pumper connection facing the street.

5.150103 Outlets

Fire hydrants shall be equipped with not less than one, four and a half (4½) inch outlet, and two, two and a half (2½) inch outlets.

5.150104 Water Systems

Public Water System: Where a public water supply system is reasonably available, it shall be extended by the owner/developer to serve the subdivision. The design and specifications of the water distribution system shall meet the standards established by the Orange Beach Water, Sewer and Fire Protection Authority. The system shall be designed with minimum eight (8) inch mains to provide maximum day domestic requirements at residual pressures of not less than twenty (20) pounds per square inch, in addition to fire flows of at least five hundred (500) gallons per minute in commercial, industrial, institutional and multi-family residential areas. Water mains shall be required on all streets and shall be looped. The distribution system shall provide connections to each individual lot shown in the subdivision, to each public facility and to areas reserved for nonresidential uses. Plans for the

system shall be fully approved by the Orange Beach Water, Sewer and Fire Protection Agency and by the City Fire Chief or his designee.

5.150105 Location

In all residential developments, fire hydrants shall be placed at each street intersection and spaced intermittently not more than five hundred (500) feet apart, with additional fire hydrants located as necessary to permit all portions of buildings to be reached by hose lay of not more than four hundred (400) feet. In all shopping centers, commercial and industrial developments, fire hydrants shall be spaced not more than three hundred (300) feet apart, with additional fire hydrants located as necessary so as to permit all portions of buildings to be reached by hose lays of not more than three hundred (300) feet. In commercial developments that are developed with streets, fire hydrants shall be placed at each street intersection with intermittent hydrants between intersections spaced not more than three hundred (300) feet apart, with additional hydrants located as necessary so as to permit all portions of buildings to be reached by hose lays of not more than three hundred (300) feet.

5.150106 Flows and Pressures

Water mains shall be interconnected or looped at intervals not exceeding six hundred (600) feet on eight (8) inch diameter mains. Where it is necessary to make dead-end extensions from the water system, such extensions shall be capable of providing five hundred (500) gallons per minute, an adequate fire flow at a static pressure of not less than forty (40) pounds per square inch (psi), and a residual pressure of not less than twenty (20) psi, and such extension shall not exceed one thousand five hundred (1,500) feet on an eight (8) inch diameter main. The Insurance Service Office (ISO) guide for determination of required fire flow will be used in estimating the fire flow required for a given fire area which is based on the type of construction and the separation of buildings. The ISO guides are available in the office of the Fire Chief.

5.150107 Maps

A map, grid, or a blue print indicating the size of mains and location of hydrants and valves shall be provided to the Orange Beach Water, Sewer and Fire Protection Authority and the Orange Beach Fire Department for approval prior to any water mains or the construction of any buildings in any development. The Orange Beach Water, Sewer and Fire Protection Authority and the Orange Beach Fire Department must approve the proposed main sizes and location of hydrants and valves before any construction commences.

5.1502 Permits

No building permit, approval, or other permission of any kind shall be issued for construction or development of any shopping center, commercial, multi family, or residential development which does not comply with the provisions of this Ordinance. Water mains and fire hydrants shall be installed, be under water pressure, and ready for

firefighting before any sheathing may be installed on walls and on roof of any building in a development.

5.16 RECREATIONAL VEHICLES AND BOATS AS RESIDENCE

5.1601 Recreational Vehicles as Residence

- a. No recreational vehicle shall be used as a residence. Occupied recreational vehicles are allowed only in recreational vehicle parks and designated areas of mobile home parks.

Unoccupied recreational vehicles may be parked at an owner's residence or business but may not be hooked up to water and sewer and occupied.

- b. Recreational vehicles may be used by a homeowner while he/she is building a residence. The RV must be hooked up to water and sewer/septic tank, and the owner must have garbage service. The RV cannot be occupied longer than six (6) months while the residence is under construction.

5.1602 Boats as Residences

No boat may be docked at a lot which does not provide berthside sewage disposal/central sewage facilities for the boat's use. No boat may be docked at a lot which does not contain a principal building. All boats docked at lots shall be equipped with minimum Class III non-discharge and marine sanitation devices. No boat docked at a lot may be used as a residence.

5.17 EXCAVATION OF MATERIAL

The excavation and/or removal of material for a boat slip(s) may not occur if such excavation and/or removal reduces the property lot size to less than the minimum square footage required for the usage and District.

5.18 REGULATION OF PEDDLERS, PALM READERS, AND FLEA MARKETS

(rev. 06/01/2010)

5.1801 Findings

- a. As an Alabama Class 8 municipality, the City of Orange Beach is vested with a portion of the State's sovereign power to protect the public's health, safety and welfare.
- b. The City is a resort island community with an economy based on the tourism industry.

- c. The City encourages business that will make the City a vital, attractive community to serve both residents and the thousands of yearly visitors.
- d. Door to door peddling and solicitation is considered commercial speech which receives limited constitutional protection.
- e. The City is concerned about the nuisance and possible increase of crime associated with door-to-door peddling and solicitation.
- f. The City wishes to facilitate those persons conducting the business of peddling and solicitation.

5.1802 Definitions

The following words, phrases, and their derivations, as used herein, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning.

- a. **Peddler** means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, carrying or transporting goods, wares, merchandise or personal property of any nature and offering the same for sale. This definition also includes any person who solicits orders and as a separate transaction makes deliveries to purchasers as part of the scheme to evade the provisions of this Section. Peddler does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to a resident for purchase at a location away from his / her residence or at a time different from the time of the visit.
- b. **Solicitor** means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. This definition also includes any person who, without invitation, goes upon private property, to request contribution of funds or anything of value, or sell goods or services for political, charitable, religious, or other non-commercial purposes.
- c. **Canvasser** means any person who attempts to make personal contact with a resident at his / her residence without prior specific invitation or appointment from the resident, for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.
- d. **Permit** in this section means a permit to peddle or solicit within the City of Orange Beach, Alabama.

- e. **Flea Market** means any market consisting of a number of individual stalls or tables, rented for a period to time, selling old or used articles, curios and antiques, cut-rate merchandise, etc.

5.1803 Districts of Operation

Peddlers and Solicitors may conduct their business only in the RM-1, RS-1, RS-2 and RS-3 district and police jurisdiction of the City of Orange Beach, Alabama. Flea markets may conduct its business only in the I-1 district. No business may be conducted on public rights of way.

5.1804 Permit Requirements and Exemptions

It shall be unlawful for any person nineteen (19) years of age or older to engage in peddling within the City of Orange Beach without first obtaining a permit issued by the Finance Department. The following are exempted from the permit requirement:

- a. Farmers or truck gardeners selling or offering for sale any product(s) grown, raised or produced by them, the sale of which is not otherwise prohibited or regulated, and further provided that such sale or offering for sale takes place on the property which produces these products, and does not take place on any public rights of way;
- b. All real estate sales;
- c. Any person under nineteen (19) year of age engaged in sale on foot, under the direct supervision of any school or of any recognized charitable or religious organization;
- d. Auction sales held pursuant to law by a Sheriff, City Official, or other officer authorized by law to conduct such sale;
- e. Sales made by a licensed wholesaler to the licensed retailer;
- f. Canvassers as defined in Section 5.1802, c.

5.1805 Flea Market Building Requirements

All flea markets within the City of Orange Beach shall be conducted within a walled structure which meets the applicable City building codes for construction and provision of services for a market.

5.1806 Permit Application

Every person subject to the provisions of this Chapter shall file with the Finance Department an application in writing on a form to be furnished by the Department, which shall provide the following information:

- a. Proof of age, address and identification of the applicant, to be provided through the applicant's driver's license or other legally recognized form of identification;

- b. A brief description of the business or activity to be conducted and the expected duration of the business or activity;
- c. If employed, the name, address and telephone number of the employer; or, if acting as an agent, the name, address and telephone number of the principal who is being represented, with written credentials establishing the relationship and the authority of the employee or agent to act for the employer or principal, as the case may be;
- d. A statement as to whether or not the applicant has been convicted of a felony, misdemeanor or ordinance violation (other than traffic violations), the nature of the offense or violation, the penalty or punishment imposed, the date when and the place where the offense occurred, and other pertinent details thereof;
- e. Proof of possession of any license or permit which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such law or regulation, would exempt the applicant from the licensing requirements of this Chapter; and
- f. Two (2) photographs of the applicant which shall have been taken within sixty (60) days immediately prior to the date of filing of the application. The photographs shall measure two (2) inches by two (2) inches and show the head and shoulders of the applicant in a clear and distinguishing manner.

5.1807 Application Fee

At the time the application is filed with the Finance Department, the applicant shall pay a fee to cover the cost of processing the application and investigating the facts stated therein in the amount of one-hundred and twenty-five (\$125.00) dollars.

5.1808 Bond

All peddlers requiring cash deposits or taking orders for cash on delivery purchases or who require a contract or agreement to finance the sale of any goods, services, or merchandise for future delivery, or for services to be performed in the future, shall furnish to the Finance Department a bond in the amount of _____ dollars at the time the application is approved.

5.1809 Review of Application

- a. Upon receipt of the application, the Finance Department shall review it for completion and consistency with the official identification provided by the applicant. The Finance Department shall then present the application to the Police Department. The Police Chief or his designee may recommend denial of the permit for any of the following reasons:
 - 1. The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers;

2. The applicant has been convicted of a felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property, such conviction being entered within the five (5) years preceding the date of application;
 3. The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five (5) years immediately preceding the date of application;
 4. There is no proof as to the authority of the applicant to serve as an agent to the principal; or
 5. The applicant has been denied a permit under this Chapter within the immediate past year, unless the applicant can and does show to the satisfaction of the Police Chief or his designee that the reasons of such earlier denial no longer exist.
- b. The Police Chief or his designee shall note the reason for a recommendation of denial when such recommendation is provided to the Finance Department.

5.1810 Issuance of Permit

- a. The Finance Director or her designee shall issue a permit if there are no inconsistencies or incomplete information in the application and no recommendation of denial from the Police Chief.
- b. The permit shall display the name, address, and photograph of the permittee, the type of permit issued, the goods or services to be sold or delivered, and the date of issuance and expiration of the license.
- c. Permittees shall receive, free of charge, a copy of the "Do Not Solicit List" when the permit is issued.

5.1811 Permit Duration

No permit shall be issued for a period lasting longer than ninety (90) days.

5.1812 Permit Exhibition

Persons licensed according to the provisions of this Chapter shall, in the course of soliciting or peddling, exhibit their permit when requested to do so by a prospective customer.

5.1813 Transfer Prohibited

It shall be unlawful for a person other than the permittee to use the permit herein described.

5.1814 Do Not Solicit Restrictions

- a. It shall be unlawful for any peddler or solicitor to solicit business where a sign is placed in a predominant and noticeable manner which states *No Solicitation* or words of similar meaning.
- b. It shall be unlawful for any person to peddle or solicit at addresses appearing on the *Do Not Solicit List*.

5.1815 Do Not Solicit List

- a. Any person or entity who owns, leases or otherwise lawfully occupies property within the City of Orange Beach may register such property on a *Do Not Solicit List* maintained by the Finance Department.
- b. Persons desiring to register on the *Do Not Solicit List* shall register with the Finance Department at City Hall.
- c. To keep the *Do Not Solicit List* current, new owners will be asked if they want to be included on the list.
- d. The *Do Not Solicit List* provided to permittees shall contain only addresses with all other personal information removed so as to insure privacy.

5.1816 Hours of Peddling

It shall be unlawful for any person conducting the business of a peddler or solicitor to enter upon private property, knock on doors or otherwise disturb persons in their residences between the hours of 7:00 p.m. and 9:00 a.m.

5.1817 Penalties

A violation of the provisions of this Chapter shall be punishable, in accordance with Section 1-7(c) of the Municipal Code, with a fine totaling no more than five hundred dollars (\$500.00). Each day a violation exists shall be deemed a separate offense.

5.1818 Permit and/or License Revocation

Any permit and/or license may be revoked by the Finance Department for any of the following reasons:

- a. Fraud, misrepresentation, or false statement contained in the permit and/or license applications;
- b. Fraud, misrepresentation or false statement made by the permittee in the course of conducting business activities;
- c. Conducting peddling or soliciting activities contrary to the provisions contained in the permit and/or license;

- d. Conducting peddling or soliciting activities contrary to the provisions of this Chapter;
- e. Conviction of any crime stated in Sections 5.1807(a)(2) or 5.1807(a)(3) herein; or
- f. Conducting peddling or soliciting activities in such a manner as to create a public nuisance constitute a breach of the peace or otherwise endanger the health, safety or general welfare of the public.

5.1819 Reports

- a. Reports of violation of this Chapter shall be kept by the Police Department and shall be issued to the Finance Department when a suspension or revocation of a permit and/or license is under review.
- b. The Chief of Police or his designee may suspend permit and/or licenses immediately, without notice or a hearing, if the public safety or welfare so requires or for any of the causes listed in Section 5.1816. Within twenty (20) days after such suspension, the Chief of Police or his designee shall report the suspension to the Finance Department.
- c. Upon such report, the Finance Department shall have the right to revoke the permit and/or license according to the procedure outlined in Sections 5.1818 and 5.1819.

5.1820 Notice of Denial, Suspension or Revocation

Notice of denial, suspension or revocation of a permit and/or license issued pursuant to this Chapter shall be provided in writing and shall set for the grounds for such denial, suspension or revocation. Notice shall be mailed to the permittee at the address provided on their application or at the last known address of the licensee.

5.1821 Appeals, Notice and Hearings

- a. Any person aggrieved by the denial, revocation, or suspension shall have the right to appeal to the City Council within fifteen (15) days after notice of the decision of the Finance Department has been delivered in person or mailed to the person's address as shown on the permit application or to the person's last known address.
- b. Such appeals are to be filed in writing, citing the grounds for the appeal, with the Finance Department.
- c. The Finance Department shall transmit the appeal to the City Clerk within ten (10) days of its receipt, and the City Clerk shall set a time and place for the hearing.
- d. Hearings shall be set no later than twenty (20) days from the date of receipt of the appellant's written statement by the City Clerk. Notice of the hearing shall be provided in the same manner described in Section 5.1818.

5.1822 Severability

The subsections, paragraphs, sentences, clauses and phrases of this Chapter are severable so that if any subsection, paragraph, sentence, clause and phrase of this Chapter is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other subsection, paragraph, sentence, clause and phrase of this Chapter, for the council declares it is its intent that it would have enacted this Chapter and all provisions adopted by reference in this Chapter without such invalid or unconstitutional provisions.

5.19 PIERS, DECKS, AND PIER/BOAT HOUSES

5.1901 Regulations

All structures:

- a. Must meet all applicable regulations of the City's Building Codes, including plumbing, electrical, etc.
- b. Must have construction approved by the U. S. Army Corps of Engineers and all other applicable local, State, and Federal agencies.
- c. Boathouses, which are constructed on waterfront properties, are exempted from the rear yard setback requirements for accessory structures; however, they must comply with required side yard setbacks.
- d. Before any piers, decks and/or pier/boat houses are constructed, a building permit must be obtained from the Department of Community Development, as well as appropriate permits from other applicable State and Federal agencies.

5.20 ROTORCRAFT SIGHTSEEING BUSINESS

5.2001 Definitions

Rotorcraft: A heavier than air aircraft that derives its support in flight principally from lift generated by one or more rotors.

Rotorcraft Sightseeing Businesses may conduct their businesses in I-1 District or in an approved PUD zoning of not less than twenty (20) acres in size of the Municipality of Orange Beach, Alabama, with the following regulations:

5.2002 Districts of Operation and Regulations

Rotorcraft Sightseeing Businesses in I-1 District or in an approved PUD zoning of not less than twenty (20) acres in size of the Municipality of Orange Beach, Alabama, with the following regulations:

- a. Such business and rotorcraft utilized therein shall be insured against liability for personal injury in an amount not less than one million dollars (\$1,000,000.00) combined single limit per occurrence, and against liability for property damage in an

amount not less than fifty thousand dollars (\$50,000.00) per occurrence. The City of Orange Beach, Alabama, shall be included as an additional insured to receive a minimum of ten (10) days notice prior to cancellation.

- b. Each pilot flying a rotorcraft in such business shall register and keep updated the following information with the Orange Beach Department of Public Safety, such information to be registered before flying can be performed by said pilot:
 - 1. The pilot's name and address;
 - 2. A copy of the pilot's current Federal Aviation Administration license;
 - 3. The name, address and telephone number of the business for which the pilot is flying;
 - 4. A copy of the pilot's current driver's license or other pictorial identification. Updates shall be required within ten (10) calendar days of any changes in the above stated information.
- c. Such business and rotorcraft utilized therein shall be solely responsible for meeting all requirements and regulations of the Federal Aviation Administration and all other Federal and State agencies.
- d. All rotorcraft shall be equipped with an adequate muffler to prevent any excessive or unusual noise.
- e. Such business and rotorcraft shall be restricted to operations between 10:00 a.m. and dusk.
- f. All rotorcraft pilots shall familiarize themselves with the air space and air traffic requirements of all surrounding airfields so as to not interfere with normal air traffic operations.
- g. Minimum required parking spaces for a rotorcraft sightseeing business shall be one (1) parking space per employee and one (1) parking space per five hundred (500) square feet of pad area.
- h. Prior to operation start up, such rotorcraft business shall provide to the Orange Beach Department of Public Safety:
 - 1. A copy of the Federal Aviation Administration heliport permit/license; and
 - 2. A copy of the Alabama Aeronautics Board heliport permit/license.

5.21 OPEN-AIR RESTAURANTS AND LOUNGES

Stand-alone open-air restaurants, lounges, bars, and/or any other establishment selling or serving beverages or food are prohibited.

5.22 OPEN-AIR MARKETS

5.2201 Definition

An open-air market is defined as a permanent structure, meeting the requirements of the Building Code, which sells produce and products of a similar nature, but is not confined within a walled structure. An open-air market is not a flea market.

5.2202 Districts of Operation

Open-air markets are allowed only in the I-1 Districts of the City of Orange Beach, Alabama. No business may be conducted on a public right-of-way.

5.23 PEDESTRIAN OVERPASSES

A pedestrian overpass is defined as a permanent structure designed to allow for the conveyance of people from one side of a public right-of-way or building to the opposite side of a public right-of-way or building. Overpasses must have a sufficient elevation or height of thirteen and a half (13½) feet so as not to interfere with vehicular or public safety traffic on the public or private right-of-way. Pedestrian overpasses, bridges or other structures are prohibited over any public right-of-way, unless approved by the City Council after review by the Planning Commission.

5.24 VEHICULAR SALES

The offering for sale or trade of any type of vehicle, whether or not motorized, including but not limited to motor vehicles, trailers, boats and/or machinery on any vacant commercial or residential lot is hereby prohibited. However, one such motor vehicle, trailer, boat and/or machinery may be offered for sale or trade on a lot developed for commercial or residential use where the primary use is not the premises of a state licensed dealer.

This regulation does not prohibit the use of a properly zoned commercial property for the sale or trade of any type and number of vehicle(s) where the operator of the business is a state licensed dealer and holds a valid business license from the City of Orange Beach.

5.25 LIQUOR STORES, PACKAGE STORES, ALCOHOLIC BEVERAGE RETAILERS

(rev. 02/01/2011)

5.2501 Definitions

- a. Liquor Store** means an establishment operated by the Alabama Alcoholic Beverage Control Board where alcoholic beverages other than beer are authorized to be sold in unopened containers and consumed off premise.
- b. Package Store or Alcoholic Beverage Retailer** means an establishment licensed by the Alabama Alcoholic Beverage Control Board to engage in the retail sale of any alcoholic beverage to consumers and authorized to be sold in unopened containers and consumed off premise. This definition does not include convenient stores, drug stores, grocery stores and supermarkets that sell beer and wine as an accessory to the retail sale of food products and beverages, novelties, clothing or any other items of general merchandise.

5.2502 Districts of Operation

Liquor stores, package stores and alcoholic beverage retailers are allowed only in the BR, GB and I-1 districts of the City of Orange Beach, Alabama.

5.2503 Restrictions

- a. Shall not be located within five hundred (500) linear feet of RS zoned areas, schools and public parks.

5.26 BODY-PIERCING STUDIOS, NON-CHARTERED FINANCIAL INSTITUTIONS, PALM READERS, PAWN SHOPS, TATTOO PARLORS (rev. 02/01/2011)

5.2601 Definitions

- a. **Body-piercing Studio** is an establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of creating openings in the body of a person for the purpose of inserting jewelry or other decorations.
- b. **Non-chartered Financial Institution** is any business, other than a federally and state chartered bank, credit union, mortgage lender or savings and loan association that offers check cashing services, automobile title loans, and loans for payment of a percentage or graduated fee. Specifically included are check cashing and pawn shop businesses that charge a percentage or graduated fee for cashing a check or negotiable instrument and “payday loan” businesses which make loans upon assignment of wages received or businesses that function as deferred presentment services.
- c. **Palm Reader** is any person who practices, teaches, or professes to practice the business of astrology or the psychic arts and sciences for a fee, gift, donation or other valuable consideration. Psychic arts and sciences may include augury, card or tea reading, cartomancy, clairaudience, clairvoyance, crystal gazing, divination, fortune telling, mediumship, necromancy, palmistry, phrenology, or prophecy.
- d. **Pawn Shop** is an establishment that lends money on the security of goods pledged by the owner of such goods on the condition that the goods may be redeemed or repurchased by the owner for a fixed price within a fixed period of time. This definition includes car title pawn companies which provide the borrower with cash in exchange for the borrower’s vehicle title as collateral.
- e. **Tattoo Parlor** is an establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of placing designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of skin by means of the use of needles or other instruments designed to contact or puncture the skin. This definition excludes permanent cosmetic establishments.

5.2602 Districts of Operation

Body-piercing studios, non-chartered financial institutions, palm readers, pawn shops, and tattoo parlors are allowed only in the GB and I-1 districts of the City of Orange Beach, Alabama.

5.2603 Restrictions

- a. Shall not be located within one thousand five hundred (1,500) linear feet of RS zoned areas, schools and public parks. (rev. 04/17/2013)
- b. This distance between similar uses shall be five thousand (5,000) linear feet.

5.27 VACATION RENTALS (rev. 04/03/2018)

5.2701 Definitions

- a. **Vacation Rental.** A single-family dwelling unit or two-family dwelling unit, duplex constructed for residential occupancy under City Code in which the Owner or Authorized Lessee offers hosted or non-hosted accommodations for periods of fourteen (14) consecutive days or less. Vacation rental does not include any accessory structures such as garages and storage sheds.

5.2702 Prohibited Areas

Vacation rentals are prohibited in the RS and MHS zoning districts.

5.2703 Allowable Areas

Vacation rentals may be allowed in single-family residential/duplex Planned Unit Development zoning districts unless expressly prohibited in the approved Master Plan. Vacation rentals are allowed in the Beach Overlay District.

5.2704 Nonconforming Uses

Any person who, on the effective date of this ordinance, is lawfully operating a short term rental business in any RS and MHS zoning district shall have ninety (90) days from the effective date to apply for a vacation rental license in accordance with Chapter 50 of the Orange Beach City Code. Upon approval of the vacation rental license, the property that is the subject of the vacation rental license shall be deemed a legally nonconforming use as allowed by Section 5.12 of this Ordinance.

In addition to the restrictions set out in Section 5.12, no building permit for additional sleeping rooms or an increase in the sleeping room floor area shall be allowed for legally nonconforming vacation rental structures.

ARTICLE 6

MOBILE HOME PARKS, RECREATIONAL VEHICLE PARKS, MOBILE HOME SUBDIVISIONS

(rev. 10/16/2007 unless otherwise noted)

6.01 MOBILE HOME PARKS AND RECREAITONAL VEHICLE PARKS

6.02 MHS-1: MOBILE HOME SUBDIVISION (LARGE LOT)

6.01 MOBILE HOME PARKS AND RECREATIONAL VEHICLE PARKS

The following regulations, except as noted, shall apply to two separate categories of zoning: (1) Mobile Home Parks, and (2) Recreational Vehicle Parks.

6.0101 Building Permit

No person shall engage in the construction of a park for the accommodation of mobile homes or recreational vehicles, or make any addition or alteration to any park so as to alter the number of lots therein, or affect the facilities required therein, until he has first secured a building permit for such addition, alteration or construction.

6.0102 Physical Separation between Recreational Vehicles and Mobile Homes

When a mobile home park is to be operated in conjunction with a park accommodating recreation vehicles, that portion of the park to be used for recreational vehicles shall be physically distinct from the mobile home park.

6.0103 Certificate of Occupancy

No person shall operate a park for the accommodation of mobile homes or recreational vehicles until securing a Certificate of Zoning Compliance from the Zoning Official and a Certificate of Occupancy from the Building Official.

6.0104 Deviations from Plans

At any time deviation from the approved plans exist which, in the judgment of the Zoning Official are not in conformity with these regulations or an approved plan, the Zoning Official shall notify the owner of record of the park to correct such deficiency within thirty (30) days of such notice. In the event such deficiency is not corrected in the time specified, the Zoning Official shall notify the City Council of all pertinent facts in writing. Upon review of such facts, the City Council may revoke the Certificate of Zoning Compliance and the Certificate of Occupancy, and order the park vacated of all units until such deviations are corrected.

6.0105 Procedure for Application for Permits and Certificates of Occupancy

6.010501 Procedure

Application for approval shall be in substantial conformity to the requirements of Article 10, Architectural Standards and Restrictions, Zoning Ordinance (#172), except that the Planning Commission will also conduct a public hearing pursuant to Article 12.08, Planning Commission Public Hearing and Notice, and submit a recommendation to the City Council. The City Council will conduct a public hearing pursuant to Article 12.09, Council Public Hearing and Notice.

6.010502 Certificate of Occupancy

The Certificate of Occupancy shall not be issued for any portion of a partially developed park unless the owner or developer of such property has posted with the City a performance bond, satisfactory to the City Attorney, guaranteeing completion of development within two (2) years of the date of the Certificate of Occupancy. A Certificate of Occupancy shall not be issued until the owner or developer of such park has paid the annual business license fee to the City.

6.0106 Site Standards

6.010601 Lots

Lots within a Mobile Home Park may be leased or rented. Lots that are proposed to be sold must be filed as a Mobile Home Subdivision plat in accordance with this Ordinance and the Subdivision Regulations for the City of Orange Beach. Spaces in a Recreational Vehicle Park may only be rented.

6.010602 Minimum Area

The minimum area for any mobile home or recreational vehicle park is three (3) acres.

6.010603 Maximum Density

The maximum density shall not exceed five (5) mobile home sites per acre, or ten (10) recreational vehicle sites per acre.

6.010604 Access

Access (ingress/egress) shall be controlled through review of plans submitted to the Building Official, but must be directly to a County, State, or Federal roadway. No entrance or exit to a mobile home park, RV park or mobile home park shall be through a district of more restrictive zoning classification.

6.010605 Utilities Service

The entire developed area shall be adequately served by public water and sanitary sewer facilities meeting all requirements of the water provider, the Baldwin County Health Department and the City of Orange Beach.

6.010606 Interior Roadways

All mobile home or recreational vehicle sites shall abut upon a roadway not less than twenty-four (24) feet in width. All internal roadways shall be all weather surfaced, well-marked, and lighted by the park owner in a manner consistent with standards established by the City of Orange Beach. Such roadways will be owned and maintained by the park owner.

6.010607 Interior Park and Recreational Areas

Each mobile home park shall be provided with a park and recreational area having a minimum area of one hundred (100) square feet per mobile home space. Such areas can be consolidated into one (1) or more usable areas.

6.010608 Operational Headquarters

Management headquarters, recreation facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to the operations of a park shall not occupy more than ten percent (10%) of the park area, and shall be restricted in their use to occupants of the park.

6.0107 Mobile Home Space Standards

6.010701 Minimum Space Dimensions

Each mobile home space shall have an area of not less than four thousand (4,000) square feet, and the average width of all spaces shall not be less than forty (40) feet.

6.010702 Clearance

Mobile homes shall be so located on each space that there shall be at least a twenty (20) foot clearance between mobile homes.

6.010703 Setbacks

Minimum front, side and rear yard setbacks shall be as follows.

Front	Fifteen (15) feet
Side	Ten (10) feet
Rear	Ten (10) feet

6.010704 Landscaping

All required yards shall be permanently landscaped and maintained with ground cover, trees and shrubs.

6.010705 Required Off-Street Parking Spaces

Each mobile home space shall be provided with two (2), nine (9) foot by twenty (20) foot off-street parking spaces.

6.0108 Responsibilities of Park Owner for Tie Downs and Anchors

It shall be unlawful for any person to place, maintain or occupy any mobile home unless such mobile home is equipped with tie downs and anchors meeting or exceeding standards of the City's Building Code. Owners of mobile home parks shall notify the Building Official of the placement of any mobile home on his property. The park owner shall also notify the Building Official of the existence of any mobile home in his park which by visual inspection appears not to comply with the tie down and anchor standards of the City's Building Code. Such notification shall be written and shall contain a statement of the nature of the possible violation, the location of the mobile home, and the name and address of the mobile home owner. It shall be the responsibility of the owner of the mobile home park to give written notice to the owners of all mobile homes within such mobile home park of the requirements of this Section.

6.02 MHS 1: MOBILE HOME SUBDIVISIONS (LARGE LOT)

6.0201 Uses Permitted by Right and Conditions

- a. Mobile home located on individual lots used for residential purposes only.
- b. Accessory buildings and structures conforming to the requirements of this section.
- c. Homes approved by HUD under Title VI of Publication 93-385, USC 5401.

6.0202 Subdivision Size, Density, Lot, Width

- a. Minimum Site Size: Five (5) acres
- b. Maximum Density: Eight (8) lots per net residential acre exclusive of streets, sidewalks and open space
- c. Minimum street frontage and property setbacks:

Minimum lot frontage at public rights of way: Seventy-five (75) feet

Minimum lot depth: One hundred twenty-five (125) feet

Minimum lot size: Nine thousand three hundred seventy-five (9,375) square feet

Minimum front setback: Thirty (30) feet

Minimum side setback: Ten (10) feet

Minimum rear setback: Twenty (20) feet

6.0203 General Development and Service Requirements

- a. Water, sewage, garbage and trash disposal shall meet standards set forth by the Baldwin County Health Department and City Ordinances.
- b. The mobile home area and the mobile homes and other structures therein shall meet all local and state standards pertaining to fire regulations, electrical, plumbing and any other local codes.
- c. All lots shall have access to roads or streets for motor traffic which shall have a minimum right-of-way of sixty (60) feet with a minimum twenty-four (24) feet of paved surface with curbs and gutter provided.
- d. Before the approval of a subdivision plat, the developer shall present a street lighting plan which must be implemented by the developer before a Certificate of Occupancy can be issued.
- e. A recreational area or areas shall be provided within the subdivision which shall be suitably designed and restricted for such use. The size of the recreational area shall be compatible with the size of the subdivision and shall be subject to the approval of the Planning Commission.
- f. A buffer strip shall be required in accordance with the Subdivision Regulations.

6.0204 Individual Lot and Structure Requirements

- a. Each mobile home lot shall have a minimum area of nine thousand three hundred seventy-five (9,375) square feet and have width measured at right angle to the side line of not less than seventy-five (75) for irregular shaped lots, provided that no lot shall have less frontage on its access street than required for a driveway allowing maneuverability of the home onto the lot. All corners of each lot shall be marked with iron pipe, or other permanent type marker.
- b. Mobile homes shall be located on lots with a minimum setback from access street of thirty (30) feet, and ten (10) feet from each side lot line, and a rear yard of twenty (20) feet.
- c. Each mobile home shall be provided with a permanent foundation.
- d. Permanent structures located within any mobile home lot shall be used for storage purposes only, and shall have a maximum area of two hundred forty (240) square feet and shall be located not less than six (6) feet from any mobile home, nor closer to any lot lines than ten (10) feet.
- e. No permanent additions of any kind shall be built onto, or become a part of any mobile home; provided, however, that this provision shall not be construed to prohibit the addition to the mobile home of a patio cover or carport cover if same is not permanently attached to the ground. Such patio covers or carport covers shall be

similar in appearance and design to the mobile home, nor shall this provision be construed to prohibit tie downs, which are required.

- f. Two (2) off-street parking spaces for each mobile home lot shall be provided.
- g. All mobile homes shall be secured by tie downs for protection from wind damage to units and adjacent property, in accordance with local codes.
- h. A pitched roof of three (3) in twelve (12) or fourteen (14) degrees or greater.

6.0205 Application Procedures for Mobile Home Subdivision Projects

- a. The developer proposing a mobile home subdivision development shall complete an application form requesting review and approval of the project by the Planning Commission in accordance with the Subdivision Regulations of the City of Orange Beach, Alabama.
- b. All applications for the proposed development shall be submitted to the Planning Commission via the Department of Community Development.

6.0206 Conflict with Other Regulations

The standards set out in this Article VI are the minimum requirements for the development of a Mobile Home Park or Recreational Vehicle Park. Whenever the provisions of any other statute or Ordinance require more restrictive standards than are required by this Ordinance, the provisions of such statute or Ordinance shall govern. The standards as set out in this article shall not control planned unit developments in Article VII. (rev. 10/16/2007)

**ARTICLE 7
PLANNED UNIT DEVELOPMENTS**

(rev. 09/06/2016 unless otherwise noted)

- 7.00 FINDINGS**
 - 7.01 PLANNED UNIT DEVELOPMENT DEFINED (PUD)/ELIGIBILITY**
 - 7.02 DEFINITIONS**
 - 7.03 DESIGN STANDARDS**
 - 7.04 REGULATIONS**
 - 7.05 PROCEDURE FOR PRELIMINARY APPROVAL**
 - 7.06 APPROVAL PROCESS**
 - 7.07 APPLICATION FOR FINAL APPROVAL**
 - 7.08 FINAL APPROVAL**
 - 7.09 CONFLICTS**
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7.00 FINDINGS

- Orange Beach is a fast-growing resort island community of over five thousand (5,000) full-time residents in 2006. Visitors are attracted by its beautiful beaches, wetlands and bays. Seasonal population has more than doubled since 2001 and continues to increase.
- Orange Beach encourages development that will make Orange Beach a vital, attractive community to serve both residents and the thousands of yearly visitors.
- As an Alabama municipal corporation, Orange Beach is vested with a portion of the state’s sovereign power to protect the public, health safety and welfare. Orange Beach is also authorized to adopt and implement comprehensive plans, zoning ordinances and other land use regulations that will assure its orderly development.
- The City’s Comprehensive Plan seeks to maintain and advance Orange Beach as a resort destination by:
 - Promoting a city of neighborhoods that feature Traditional Neighborhood Design characteristics including the building of pedestrian-friendly neighborhoods with a mix of uses, housing types and costs;
 - Encouraging improved mobility through mass transit and other alternative forms of transportation;
 - Preserving the natural habitat, environmental beauty as well as nature-related recreational activities;
 - Protecting and enhancing property values and marketability of homes, residences and commercial properties.

- The goals of the Comprehensive Plan cannot be fully achieved within the context of the City's existing zoning scheme and the Council deems it necessary, advisable and in the public interest to encourage planned unit developments as defined herein.
- Planned Unit Development zoning is a well-accepted and recognized planning device designed to bring an element of flexibility into an otherwise rigid system of zoning controls.
- Planned Unit Development zoning establishes a voluntary regulatory framework that will encourage and promote improved environmental and aesthetic design, better utilization of sites, diversification and variation in the bulk and relationship of uses, structures and spaces that is envisioned in the Comprehensive Plan

7.01 PLANNED UNIT DEVELOPMENT DEFINED (PUD)/ELIGIBILITY

The Planned Unit Development (PUD) is a special zoning classification that permits flexibility in densities, setbacks, uses, open space and other bulk and area requirements for property that would otherwise be mandated by the Zoning Ordinance and Subdivision Regulations. The classification is voluntary, and nothing in this ordinance guarantees a property owner the right to develop a PUD. PUDs shall be approved only if the proposed development fully meets the letter, intent, purpose and requirements of Article 7 of this Ordinance.

7.02 DEFINITIONS

Unless the context otherwise requires, the definitions in Article 2, also apply in this article, regardless of capitalization.

7.03 DESIGN STANDARDS

The purpose and intent of this Ordinance is to have developments which promote the goals of the Comprehensive Plan. No PUD shall be approved unless it is (1) consistent with the goals of the Comprehensive Plan and (2) is compatible with adjacent zoning districts. In addition, all PUDs shall achieve one or more of the following objectives:

- A.** A maximum choice in the types of environment; occupancy tenure, such as cooperatives, individual ownership, condominium and leasehold; housing type; lot sizes; and community facilities available to existing and potential residents at all economic levels.
- B.** More usable and suitably located open space, recreation areas and other common facilities.
- C.** More convenience in location of accessory commercial and service areas.
- D.** Maximum enhancement and minimal disruption of existing natural features and amenities.

- E. Promote a transition between adjacent and nearby zoning districts, land uses, and development intensities. (rev. 05/04/2010)
- F. The preservation of trees, habitat, outstanding natural topography and geologic features and prevention of soil erosion.
- G. An efficient use of land resulting in small networks of utilities and streets and thereby lowering housing costs.
- H. A creative use of land related physical development which allows an orderly transition from urban and suburban uses to rural or undeveloped areas.
- I. More efficient and economic arrangement of varied land use, buildings, circulation systems and facilities.
- J. Project phasing that will ensure the balanced and coordinated development of varied land uses and public facilities and services needed to support them.
- K. Better utilization of sites characterized by special features of geographic location, topography, size or shape.
- L. Superior development and redevelopment which is more desirable than that which would occur through strict application of the zoning code.

7.04 REGULATIONS

An approved Planned Unit Development shall be considered to be a separate zoning district in which the development plan, as approved, establishes the specific restrictions and regulations customized to fit the type of plan proposed by which the development shall be governed. Said restrictions may be greater or lesser than the ones otherwise imposed by the zoning and subdivision ordinance in order to achieve a development which fits the City's Comprehensive Plan and the design standards set forth in this ordinance and as follows:

- A. **Density:** The criteria for establishing an average density includes the land use plan for the area, existing surrounding density, density permitted by the existing zoning classification, adequacy of existing and proposed public facilities and services and site characteristics. Density must generally conform to the requirements as set out in Article 4.
- B. **Common Open Space:** At least twenty percent (20%) of the area covered by a Final Development Plan shall be landscaped or provide common open space owned and operated by the owner/developer or dedicated to a homeowner association or similar group. Provided, that in establishing the density per gross acre, the City Council may increase the percentage of common open space in order to carry out the intent and purpose as set forth in Section 7.03 hereof. However, when commercial or industrial development is proposed (with or without a residential component) open space of not less than twenty percent (20%) shall be provided.

- C. **Access and Parking:** All streets, thoroughfares and access ways shall be designed to effectively relate to the major thoroughfare plans of the City. Adequate off-street parking shall generally conform to the off-street parking requirements set forth in Article 8.
- D. **Perimeter Requirements:** Upon recommendation of the Planning Commission the City Council may impose the requirement that structures, buildings and streets located at the perimeter of the development be permanently screened to protect the privacy of the adjacent existing uses.
- E. **Signage:** The size, location, design and nature of signs, if any, and the intensity and direction of area floodlighting shall be detailed in the application and must generally conform to the sign regulations in Article 15, unless the massing and scale of the PUD would make additional or different requirements desirable. Signs must nonetheless fit the design character of the development. Any deviation from the City's sign regulations will be limited. (rev. 09/03/2013)
- F. **Height Limitations:** The criteria for establishing height limitations includes the land use plan for the area, existing surrounding building heights, heights permitted by the existing zoning classification and site characteristics. Height limitations must generally conform to the requirements as set out in Article 4 of this Ordinance and the architectural standards set out in Article 10 of this ordinance.
- G. **Landscaping and Tree Protection:** The criteria for landscaping, removal of trees and protection of heritage trees should generally conform to the requirements of Article 16 of this ordinance.

7.05 PROCEDURE FOR PRELIMINARY APPROVAL

The procedure for obtaining a change in zoning for the purpose of undertaking a Planned Unit Development shall be as follows:

- A. **Pre-application Meeting:** The owner/developer shall schedule a pre-application meeting with the Department. At the pre-application meeting, the petitioner is encouraged to submit a Sketch Plan of the proposed project, containing the following points:
 1. The present uses and character of the area;
 2. The road and street system, including peripheral streets and proposed internal circulation pattern as related to requirements of this Article;
 3. Public and private open area and parks and trails;
 4. Public utilities and services for their counterpart such as water, sewer, fire protection surface drainage and school facilities, if any;
 5. Type of structures to be built; and proposed uses to be developed.
- B. **Preliminary Planned Unit Development Zoning and Master Plan Approval:** The owner/developer shall submit to the Department a completed application, pay all applicable fees and submit the following attachments.

1. A statement of objectives describing:
 - a. The general purpose of the proposed development.
 - b. The general character of the proposed development.
 - c. A list of the items of the project which do not meet the strict interpretation of the Zoning Ordinance and thus how it complies with the Design Standards in Section 7.03.
 - d. A statement from the developer/owner as to the compatibility of the proposed project with the vicinity as it exists or as it is developing.
2. A vicinity map showing the location of the proposed elements of the Planned Unit Development in relation to:
 - a. Surrounding streets and thoroughfares.
 - b. Existing zoning on the site and surrounding areas.
 - c. Existing land use on the site and surrounding areas.

The vicinity map shall be drawn at a scale suitable to show an area of no less than five hundred (500) feet on all sides of the property. Adjacent streets shall be shown and clearly labeled with street names. A greater area may be required if the Department determines that information on a larger vicinity is needed.

3. A signed and sealed boundary survey and legal description of the property prepared by an engineer or surveyor registered in the State of Alabama. The survey shall indicate the total gross square footage of the site expressed in acres and show water bodies, existing structures, pavement and location of all easements.
4. A signed and sealed topographic and tree survey of the site drawn to a scale of one (1) inch equals thirty (30) feet by an engineer or surveyor registered in the State of Alabama showing:
 - a. The location of existing wetlands and jurisdictional lines as approved by the appropriate environmental agency.
 - b. Water bodies to include but not be limited to streams, lakes, marshes and coastal waters.
 - c. Existing site elevations shown on a twenty-five (25) foot grid, including off site elevations within twenty-five (25) feet of the property. Contour lines shall be shown at a contour interval of one (1) foot.
 - d. Location, species and size of all on site protected trees and off site protected trees within twenty-five (25) feet of proposed construction and earthwork.
5. A site analysis map, at the same scale as the Master Plan described below, shall be submitted indicating FEMA Firm Map Flood Zones.
6. A master plan, drawn at a minimum scale of one (1) inch equals thirty (30) feet suitable for presentation, showing and/or describing the following:
 - a. Proposed land uses for each lot or parcel.
 - b. Lot sizes: The lot sizes should be indicated either by lot lines drawn in their proposed location or a statement noted on the face of the Master Plan concerning lot sizes, including minimum lot sizes proposed for each area where lots will be developed.

- c. Building setbacks: Building setbacks should be noted and shall define the distance buildings will be set back from:
 - 1. Surrounding property lines, adjacent buildings, structures and uses.
 - 2. Proposed and existing streets.
 - 3. Other proposed buildings.
 - 4. Other man-made or natural features which would be affected by building encroachment.
 - d. Maximum height and number of floors of each building.
 - e. Open spaces
 - 1. Developed recreation facilities;
 - 2. Common useable open space (not to include detention/retention areas, drainage easements, or natural or man-made water bodies) such as plazas, courtyards and parks;
 - 3. The general location and size of hardscape or water features;
 - 4. Natural areas (not to include wetlands created or enhanced as part of a mitigation plan).
 - f. The location, width, pavement type, right-of way name and other related appurtenances of all public rights-of-way adjoining, traversing or proximate to the site.
 - g. Common outside storage areas
 - 1. Indicate purpose of storage area and any proposed structures;
 - 2. Show how storage area will be buffered from surrounding off and on site uses.
 - h. Screening, buffering and landscaped areas
 - 1. Indicate overall size and dimensions of each area;
 - 2. Indicate location and general type of buffering materials (e.g. trees, hedges, walls, fences);
 - 3. Indicate dimensions of structures such as walls or fences.
 - i. Parking
 - 1. Parking calculations based on proposed uses (submit a parking study to justify any reduction in parking requirements from those listed in Article 8 of the Zoning Ordinance);
 - 2. Indicate location and size of surface parking areas and parking structures;
 - 3. Indicate ingress/egress, circulation plan, and number of parking spaces for surface lots and parking structures;
 - 4. Indicate number of floors and spaces per floor for parking structures;
 - 5. Indicate type of paving materials for all surface lots.
7. A proposed list and description of Development Commitments and benefits.
8. A table showing acreage for each category of land use.
9. A table of proposed maximum and average densities for residential land uses. If the proposed PUD will contain multiple subdivided residential lots, provide the aggregate square footage, average square footage, lot size range, and average lot width and lot width range.
10. A statement of the maximum building coverage and amount and percentage of impervious area for all uses other than single-family homes.

11. A preliminary utility service plan including sanitary sewers, storm drainage, and potable water supply, showing general location of major water and sewer lines, plant location, lift stations, and indicating whether gravity or forced systems are planned. Size of lines, specific locations and detailed calculations are not required at this stage.
12. Letter of utility availability from all service providers.
13. A statement indicating the type of legal instruments that will be created to provide for the management of common areas.
14. A list certified by the County Revenue Commissioner's office of the names and addresses of property owners within five hundred (500) feet of the proposed Planned Unit Development.
15. A concept storm water management plan signed and sealed by an Alabama Registered Professional Engineer, that complies with Orange Beach Land Development Code, Article IV, Storm Water Management Regulations, Section 42-291. Additional information, such as drainage calculations, topographic survey information and soils information, may be required by the Community Development Department on sites where staff has determined it necessary to ensure compliance with storm water regulations or the conditions of the Planned Unit Development.
16. A traffic study shall be required if the proposed PUD exceeds one hundred fifty (150) units for residential and lodging developments; twenty-five thousand (25,000) square feet (GFA) for commercial and retail developments; sixty thousand (60,000) square feet (GFA) for office and institutional developments; and ninety thousand (90,000) square feet (GFA) for industrial developments. The traffic study shall be prepared by a professional traffic engineer licensed in the State of Alabama and shall follow the guidelines specified in Article 7.07.H. The analysis must be submitted to the Department of Community Development and to the City's traffic consultant for review.
17. Architectural renderings and elevations.
18. State whether the planned uses comply with the comprehensive plan current and future land use designations.
19. A master sign plan, showing location, size, and type for the proposed signage of the development.

7.06 APPROVAL PROCESS

When the Planning Division has received the completed application and required attachments and has verified that the application, required attachments and submittals appear complete, the application shall be processed as any other zoning application in accordance with Article 12 of the Zoning Ordinance.

- A. After review, the Planning Commission shall make a recommendation to the City Council to either approve, approve with conditions, or deny the application.
- B. No later than ninety (90) days after receiving the recommendation of the Planning Commission, the Council shall place the matter on its agenda for preliminary consideration and may:
 - 1. Approve for rezoning to Planned Unit Development as submitted subject to final approval of the Master Plan;
 - 2. Approve with conditions, subject to final approval of the Master Plan; or
 - 3. Disapprove the Planned Unit Development rezoning.
- C. **Conditional Approvals.** If the City Council approves the Preliminary PUD Master Plan with conditions, the petitioner must submit to the Community Development Department a revised Preliminary Plan showing all changes required by the Council within thirty (30) days of the date of the City Council's approval. If the Community Development Department does not receive the revised Preliminary Plan within thirty (30) days, the conditional approval expires.
- D. **Deadline for Final Approval.** Not later than twelve (12) months from the date of the Council grants preliminary approval of the PUD, the applicant must submit a Final Master Plan to the Department; otherwise, the preliminary approval shall expire.
- E. **Expedited Review.** The applicant may choose to combine the preliminary and final plans into one (1) application. The expedited review would accomplish the rezoning of the property. All preliminary and final plan requirements shall be included in an expedited review. The Planning Commission and City Council can recommend a separate review of a PUD proposal based on the scope of the project. (rev. 09/06/2016)

7.07 APPLICATION FOR FINAL APPROVAL

If the Preliminary Plan is approved, the applicant shall submit a Final Planned Unit Development Plan covering all or part of the approved Master Plan within 12 months to the Department. The Final Development Plan shall include the following attachments:

- A. A letter from the applicant describing:
 - 1. The request for final approval;
 - 2. Changes, if any, from the approved Preliminary Plan.
- B. A signed and sealed topographic and tree survey drawn to scale of one (1) inch equals thirty (30) feet by a land surveyor and/or engineer registered in the State of Alabama showing:
 - 1. The location of existing wetlands and jurisdictional lines as approved by the appropriate environmental agency.
 - 2. Water bodies to include but not be limited to streams, lakes, marshes and coastal waters.
 - 3. Existing site elevations shown on a twenty-five (25) foot grid, including off site elevations within twenty-five (25) feet of the property. Contour lines shall be shown at a contour interval of one (1) foot.

4. Location, specie and size of all on site protected trees and off site protected trees within twenty-five (25) feet of proposed construction and earthwork.
- C. A signed and sealed Development Plan drawn at a minimum scale of one (1) inch equals thirty (30) feet by an engineer, architect or landscape architect registered in the State of Alabama showing:
1. The boundaries of the site.
 2. Width, location and names of surrounding streets or public rights-of-way.
 3. Surrounding land uses within seven hundred fifty (750) feet of the site.
 4. Proposed streets and street names and other vehicular and pedestrian circulation systems including off-street parking and indicating number of spaces, walkways and trails.
 5. The use, size and location of all proposed building sites and lots.
 6. Location and size of common open spaces and public or semi-public areas such as schools, parks, playgrounds and other open spaces.
 7. All easements for utilities or other uses, indicating width.
 8. A vicinity map.
 9. Front, side, and rear elevations for all multifamily, commercial, and industrial buildings, identifying colors and materials.
 10. A master sign plan, showing location, size, and type for all commercial signage visible from any public right-of-way;
 11. If development is to be built in phases, phase lines showing the order in which development is to occur.
 12. The following information in tabular form (if development date for each phase shall be shown, in addition to the overall site).
 13. Dimensional Restrictions: The location of all proposed building sites shall be shown on the Final Development Plan subject to the minimum lot sizes, setback lines, and lot coverage or floor area, specified in the Preliminary PUD Master Plan as approved by the City Council.
- D. A signed and sealed utility service plan prepared by an engineer, architect or landscape architect as applicable, registered in the State of Alabama showing:
1. Any and all existing drainage, water, sewer or electrical lines.
 2. Proposed water, sewer, electrical, telephone and cable lines, indicating size or capacity.
 3. A site lighting plan conforming to all city requirements.
 4. Location and width of all utility easements and/or rights-of-way.
- E. A landscape plan prepared by a landscape architect registered in the State of Alabama meeting all City requirements showing:
1. Landscaped areas.
 2. Location, height and material for walks, fences, walkways, and other man-made landscape features. Including hardscape areas such as plazas and courtyard.
 3. Any special landscape features such as, but not limited to, man-made lakes, land sculpture and waterfalls.
 4. Designation of all protected trees to be removed and retained on site.

- F.** Statistical information in tabular format:
1. Total acreage of the site.
 2. Maximum building coverage expressed as a percent of the area.
 3. Total area covered by impervious surfaces with separate totals for buildings and vehicular use areas.
 4. Area of land devoted to landscaping and/or open space useable for recreation purposes expressed as a percent of the total site area.
 5. Gross and net density for residential areas.
 6. Aggregate lot square footage, average lot size, lot size range, and average lot width and lot width range for development with multiple subdivided residential lots.
 7. Gross floor calculation for all buildings.
 8. Character and elevations for commercial and industrial buildings calling out colors and materials.
 9. Schedule of development staging, if any.
 10. A Final Boundary Survey, prepared by a surveyor registered in the State of Alabama indicating the total site area (expressed in acres) and the area (expressed in acres) for each development stage (if any).
- G.** The covenants, grants, easements or other restrictions to be imposed on the use of the land, buildings and structures, including proposed easements for public and private utilities. All such legal documents, including homeowner's associations and deed restrictions, must be approved by the City Attorney before final approval of the plan.
- H.** In cases where the proposed use or uses of the subject parcel will potentially generate a greater number of trip generation rates than the allowable uses/densities of the underlying zoning district or require improvements to the transportation infrastructure as determined by Article 7.05, B.16 or the Community Development staff, a transportation analysis shall be required. The transportation analysis shall be prepared by a professional traffic engineer licensed in the State of Alabama. The analysis shall include the total trips onto the adjacent streets. Institution of Traffic Engineers (ITE) trip generation rates or another approved source shall be used as the basis for trip generation calculations. In addition, the detailed traffic analysis shall include, but not be limited to the following:
1. Level of service calculations at each project access point for both the A.M. and P.M. peak hour;
 2. Level of service calculations at major and minor intersections that would be impacted by the proposed development for both the A.M. and P.M. peak hour;
 3. A determination of need for auxiliary lanes;
 4. A determination of need for traffic signals or other traffic-control devices;
 5. Other transportation factors as may be appropriate as determined by the City of Orange Beach Community Development Department, based upon generally accepted traffic engineering practices;
 6. Traffic counts on all frontage streets and any other streets as requested by the City of Orange Beach.
- I.** Verification that the land is in full single interest control. This may be in the form of a title or binding sales agreement.

- J. Master Storm Water Management Plans prepared by an engineer registered in the State of Alabama, including but not limited to a comprehensive drainage plan showing existing and proposed elevations, proposed private and public drainage easements, an erosion and sediment control plan, drainage calculations, soils report with water table and percolation data and a storm water management facility maintenance plan. The Master Storm Water Management Plan must conform in all respects to Article IV, Storm Water Management Regulations, and Orange Beach Land Development Code.

7.08 FINAL APPROVAL

Upon completion of the Final Development Plan in accordance with Section 7.06, the Department shall schedule the matter for a Public Hearing at a regularly scheduled Planning Commission meeting. The application for approval of the Final Development Plan constitutes a rezoning and will be processed in the same manner as any other Zoning Ordinance amendment.

Zoning Map: Upon final plan approval, the official Zoning Map will be changed to indicate the area as Planned Unit Development; provided, however that if the PUD is not constructed within the time period herein specified, the Department shall initiate the process to return the property to its original zoning classification. The approved Final Development Plan shall be binding on all subsequent owners of the land until revised or repealed as authorized in this article and in the same manner as any other rezoning.

Building Permits: No building permit shall be issued for any portion of a proposed Planned Unit Development until the Final Development Plan has been approved as required by this Article.

Construction shall proceed only in accordance with the plans and specifications approved and in conformity with any conditions attached to the approval. If the construction is to proceed in stages, then the developer must begin the construction of each stage within the time limits specified in the final development plan.

The Building Official shall periodically monitor the construction of the PUD with respect to the start of construction and development phasing. The Director is authorized to extend the time for start of construction, or the length of time needed to complete a phase, but only any extension greater than one month shall be considered a minor modification.

The Building Official shall not issue any permit for any proposed building, structure, activity or use within the project unless such is in accordance with the approved development plan and any conditions imposed in conjunction with its approval.

The Director shall issue a certificate of occupancy for any structure upon its completion in accordance with the development plan

Control of Area Following Completion: After approval of a Final Planned Unit Development, the use of the land/or modification or alteration of any buildings or

structures within the area covered by the plan shall continue to be regulated in accordance with the approved plan except as otherwise provided for herein.

Amendments to a Planned Unit Development: Amendments shall be considered major or minor. Minor amendments are changes which do not alter the concept of the PUD in terms of density, floor area ratio, land usage, height, provision of open space, or the physical relationship of elements of the development, including, small changes in the location of buildings, open space, or parking; or realignment of minor streets.

Minor amendments may be authorized by the Director and the City Engineer As follows:

- A.** Does not increase the proposed floor area for nonresidential use by more than five percent (5%). Does not increase total number of dwelling units by more than five percent (5%) within a given phase. Fluctuation greater than the above shall be permissible provided overall density is maintained. Does not increase total building coverage by more than five percent (5%).
- B.** Does not increase total building coverage by more than five percent (5%).
- C.** Does not increase total building height by more than five percent (5%) to a maximum of eight (8) feet for buildings less than four (4) stories nor more than one (1) story for buildings greater than four (4) stories.
- D.** Provides for a decrease of up to ten percent (10%) in land coverage, height or numbers of dwelling units.

Major amendments represent substantial deviations from the PUD concept approved, including, large changes in floor space, mix of uses, density, lot coverage, height, setbacks, lot sizes, open space, changes in the location of buildings, open space, or parking; or changes in the circulation system

Any proposed major or substantial change in the approved Preliminary or Final Planned Unit Development Master Plan which affects the intent and character of the development, the density or land use pattern, proposed buffers, the location or dimensions of arterial or collector streets, or similar substantial changes, shall be reviewed by the Planning Commission and the City Council in the same manner as the initial zoning application. A request for a revision to the Preliminary or Final Planned Unit Development Plan shall be supported by a written statement and by revised plans demonstrating the reasons the revisions are necessary or desirable.

Minor changes or mere deviations from the Preliminary or Final Planned Unit Development Master Plan, which do not affect the intent of character of the development or the items identified as "major or substantial changes", shall be reviewed and identified by the Department of Community Development and approved by the City Council. Changes to names of streets, roads, access easements, whether public or private previously approved through the PUD process, are considered revisions or amendments. Upon approval of the revisions or amendment, the owner/developer shall make modifications to the plans and attachments and file with the Department of Community Development within thirty (30) days.

Planned Unit Development Time Limitations: If a building permit has not been issued within one (1) year of the final approval, the applicant can request a one-year extension. If no extension is requested to the Department of Community Development, the Department will place on the Planning Commission's agenda a zoning request to return the zoning to its original classification. The Planning Commission will then make their rezoning recommendation to the City Council for final action.

7.09 CONFLICTS

In the event of a conflict between the provisions of this article and other provisions of the zoning ordinance, the provisions of this article shall prevail and be controlling. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions would be declared invalid or unconstitutional.

**ARTICLE 8
OFF-STREET PARKING AND LOADING REQUIREMENTS**

(rev. 01/03/2017 unless otherwise noted)

8.01 REQUIRED OFF-STREET PARKING

8.01 REQUIRED OFF-STREET PARKING

There shall be provided, at the time of the erection of any building or at the time any principal building is enlarged or increased in capacity, or before conversion from one (1) type of use or occupancy to another, permanent off-street parking and loading space in the amount specified by this Section.

8.0101 Minimum Off-Street Parking Spaces Required

- a. Single-family dwelling, attached or detached: two (2) spaces for up to two (2) bedrooms; for dwelling units with three (3) or more bedrooms or sleeping rooms, one (1) parking space per bedroom or sleeping room. (rev. 11/17/2015)
- b. Two-family structure: two (2) spaces for up to two (2) bedrooms per unit; for units with three (3) or more bedrooms or sleeping rooms, one (1) parking space per bedroom or sleeping room. (rev. 11/17/2015)
- c. Multi-family structures: two (2) parking spaces for each dwelling unit up to three (3) bedrooms, three (3) spaces for four (4) or five (5) bedrooms, and four (4) spaces for more than five (5) bedrooms; one (1) additional guest parking space per every five (5) units. (rev. 11/17/2015)
- d. Hotels, condo-hotels, motels and motor inns: one and one-fourth (1.25) parking spaces per lodging room with a gross floor area of six hundred (600) square feet or less; two (2) spaces per lodging room with a gross floor area exceeding six hundred (600) square feet; and additional parking spaces for accessory uses such as restaurants, lounges, offices, shops, etc. as required in this Ordinance. Franchise required accessories (i.e., dining facilities) that are not opened to the general public and are for registered guest only are considered accessory uses in determining required parking. No additional parking for meeting facilities with a gross floor area not exceeding twenty-five (25) square feet per the number of lodging rooms proposed (i.e., 200 rooms x 25 s.f. per room = 5,000 s.f.), but meeting facilities with a gross floor area in excess of twenty-five (25) square feet per the number of lodging rooms proposed must adhere to the parking requirements for meeting facilities as required in this Ordinance. (rev. 02/17/2009)
- e. Hotels, condo-hotels, motels and motor inns: two (2) parking spaces per guestroom unit, plus one (1) parking space per three (3) employees at maximum shift, plus additional spaces for accessory uses such as restaurants, lounges, offices, shops, etc., as required in this Ordinance. Convention/meeting rooms will be accessed at the rate of one (1) space per one hundred (100) square feet. In those instances

where the meeting space or convention space is contained within the building, sixty percent (60%) of the one per one hundred (1/100) rate will be required.

- f. Barber shop/beauty shop, bed and breakfast: two (2) parking spaces for the owner/resident, plus one and three-fourth (1.75) parking spaces per guestroom unit.
- g. Church, synagogue or other place of worship, assembly halls, theaters, community recreation centers: one (1) space for each four (4) fixed seats in the largest assembly room or area, or for each forty (40) square feet of floor area available for the accommodation of movable seats in the largest assembly room.
- h. Libraries, art museums and similar cultural facilities: one (1) space for each four hundred (400) square feet of gross floor area.
- i. Private clubs, country clubs, and lodges: one (1) space for each two hundred fifty (250) square feet of gross floor area.
- j. Funeral home: one (1) space for each four (4) seats or bench seating spaces in chapel; if no chapel, one (1) space for each forty (40) square feet of floor area available to the public use.
- k. Medical offices, dental offices and medical and veterinary clinics: four (4) parking spaces for each doctor plus one (1) parking space for each employee.
- l. Retail stores selling clothing, variety merchandise, jewelry, sporting goods, musical records, tapes, video cassettes, drugs, liquor, small hardware, groceries, and similar items: one (1) space for each two hundred (200) square feet of gross floor area.
- m. Retail stores selling merchandise generally characterized by high bulk and high cost including stores selling furniture, appliances, large hardware items, business machines, bicycles, guns, light fixtures, radio and television, auto accessories, building materials, home furnishings, and similar goods: one (1) space for each three hundred (300) square feet of gross floor area.
- n. Service stations, car wash: five (5) parking spaces for each bay and two (2) for each wash rack.

In determining parking requirements for restaurants of all types, facilities for seating and drive-in and/or take out services will be taken into consideration. Required parking will be based on the facilities provided and parking requirements shall be cumulative. When facilities are provided for ordering from picking up by and/or serving to a vehicle, stacking spaces (the area reserved for queuing vehicles) and/or parking (as applicable) shall be required. In certain situations, it may be appropriate to require less parking. In such situations, the City Council may, upon recommendation of the Planning Commission, reduce the parking requirements where, owing to an apparent abundance of parking spaces on the same lot as the restaurant, such reduction is desirable.

- o. Restaurants, lounges, and other eating and drinking places (freestanding, not connected to a hotel or other primary use): one (1) space for each one hundred (100) square feet of gross floor area and outdoor seating areas. (rev. 11/17/2015)
- p. Restaurants, lounges, and other eating and drinking places (as an accessory use, connected to a hotel or other primary use): sixty percent (60%) of the requirement of one (1) space for each one hundred (100) square feet of gross floor area and outdoor seating area. (rev. 11/17/2015)
- q. Restaurant, Drive-in or Take Out: one (1) space for each three (3) seating accommodations, three (3) spaces for each walk-up window, one (1) space for every three (3) feet, or fraction thereof, of service counter (whether located inside or outside), one (1) space for each vehicle if curb service is offered, stacking space for five (5) vehicles measured from the window at which food is served if drive-thru facilities are provided.
- r. Bowling alley or poolroom: two (2) spaces for each alley or billiard or pool table.
- s. Bank, savings and loan or other financial institution: one (1) parking space for each two hundred (200) square feet of gross floor area plus one (1) space for each two (2) employees.
- t. Professional and business offices: one (1) space for each two hundred eighty (280) square feet of gross floor area.
- u. Commercial recreational and amusement establishments enclosed: one (1) space for each two hundred (200) square feet of gross floor area; outside recreation one (1) space per four (4) patrons at design capacity.
- v. Personal service establishments: one (1) space for each two hundred (200) square feet of gross floor area.
- w. General service or repair establishment, printing, publishing, plumbing, heating, and broadcasting: one (1) space for each five hundred (500) square feet of gross floor area.
- x. Laundromat: one (1) space for each two (2) washing machines or one (1) space for each seventy (70) square feet of floor space, whichever is the greater.
- y. Manufacturing or industrial establishment, research or testing laboratory, bottling plant, wholesale, warehouse or similar establishment: one (1) space for each eight hundred (800) square feet of gross floor area. Mini warehouse, self-service storage facilities: one (1) space for each two hundred eighty (280) square feet of office space and additional parking spaces for manager's quarters, retail space, and truck and trailer rentals; alley separating rows of storage units shall be wide enough to allow two (2) vehicles to pass each other. (rev. 01/03/2017)

z. Non-commercial Boat Docking as an Accessory to:

Single family dwelling and duplex dwellings: 0 additional spaces (no more required than those for the dwelling(s)).

Multi-family dwelling units: 0 additional spaces (no more required than those for the dwelling(s)).

Multi-family dwellings where the number of slips exceeds the number of multi-family units: one and one-half (1.5) spaces for each slip that exceeds the number of multi-family dwelling units.

Marina:

In addition to all other parking requirements herein a business docking boats shall have one-half (.50) parking spaces per one hundred (100) square feet of gross floor area (not including dock stores over water) devoted to marina operations (not including dry boat storage), plus

One and one-half (1.50) parking spaces per non fare-carrying vessel, plus

Three (3) parking spaces per fare-carrying fishing vessel, (charter boat), plus

One (1) space per four (4) permitted passengers (for which the boat is licensed) for sightseeing/dinner cruise boats and head boats.

Depending on the marina facilities provided, only those applicable requirements shall apply. If the mix of slips/berths offered by a marina should change, the appropriate parking requirements shall be required.

These requirements apply to all new marinas and any new uses or clients of existing marinas.

Marine Dry Storage: one (1) space for every four (4) boat berths.

8.0102 Location of Parking Spaces

No lot in RS-1, RS-2, RS-3, and NB Districts may be used for parking without the location on the lot of a principal residential or business, as appropriate, structure. Parking spaces for all uses or structures shall be located on the same lot with the principal use unless a special exception is approved for off-site parking facilities which:

- a.** Shall not be located more than two hundred (200) feet from the lot on which the principal use to be served is located unless approved by City Council; and
- b.** The zoning classification of the property on which the off-site parking facilities are located shall be the same or a less restrictive classification.

- c. Off-site parking shall not exceed twenty-five percent (25%) of the total required spaces.

Where required parking spaces are not located on the same lot as the principal use, a written agreement assuring the continued availability of such off-site facilities to serve the principal and accessory uses shall be properly drawn and executed by the parties concerned, approved as to form by the City Attorney, and shall be filed with the application for a site plan review.

Parking spaces for all uses or structures may be located within the front and rear and side setbacks of the property. **Whenever a vehicular use area is located in the side yard setback, a five (5) foot landscaped buffer containing hedge materials shall be provided between the vehicular use area and the adjacent property.** Parking is not permitted in the side yard setback. Parking is permitted in the front and rear side setbacks, as long as there is twenty-four (24) feet of clearance between the front corner of the building and the nearest parking space, and twenty-four (24) feet of clearance between the rear corner of the building and the nearest parking space, when required for fire access.

8.0103 Collective Provision of Parking Spaces

Two (2) or more owners or operators of commercial buildings or uses of the same type of zoning classification may apply to the Planning Commission for collective provision approval of required off-street parking facilities if the following conditions are met:

- a. The total number of off-street parking spaces, when combined, shall not be less than the sum of the requirements for each individual use when computed separately; and
- b. The combined parking facility is located in a zoning district where off-street parking facilities for employees, customers, or visitors are permitted.

8.0104 Design Standards and Improvements Requirements

8.010401 Definition

An off-street parking space is a parking area not located within a public or private right-of-way, exclusive of driveways, permanently reserved for the temporary storage of one (1) automobile and connected with a street or alley by a driveway which affords unobstructed ingress and egress to each space. (rev. 01/03/2017)

Off-street parking spaces located in a parking structure may include up to twenty-five percent (25%) of the required parking and one hundred percent (100%) of the excess parking as Compact Spaces. Compact Spaces may be eight (8) feet by eighteen (18) feet and must be so marked as "COMPACT ONLY". (rev. 04/01/2008)

8.010402 Permit

A certificate of Zoning Compliance approved by the Zoning Official shall be required.

8.010403 Parking Area Dimensions

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

TABLE 8.010403: PARKING AREA DIMENSION TABLE			
CURB	STALL		ACCESS
Angle of Parking	Length Per Car	Stall Depth	Driveway Width
0	23'0"	9'0"	12'0"
20	26'4"	15'0"	11'0"
30	18'0"	17'4"	11'0"
40	14'0"	19'2"	12'0"
45	12'9"	19'10"	13'0"
50	11'9"	20'5"	12'0"
55	11'1"	20'3"	15'6"
60	10'5"	21'0"	18'0"
70	9'8"	21'0"	19'0"
80	9'8"	20'4"	24'0"
90	9'0"	19'0"	24'0"

8.010404 Width of Two-Way Access Driveways

The minimum width of two-way access driveways within a parking area shall be twenty (20) feet.

8.010405 Paving Standards

Vehicle use areas must be constructed of concrete, asphalt, brick, cement pavers or similar material installed and maintained per industry standard. Alternative all-weather surfaces such as gravel, shell, pervious concrete, and reinforced turf may be approved by the Planning Commission in consideration of site conditions, traffic intensity and land use. (rev. 01/03/2017)

Any alteration or improvement including, but not limited to, the paving of unpaved vehicle use areas, the addition of parking spaces, etc., shall be required to obtain site plan approval.

8.010406 Parking Areas Exempted from Landscaping Requirement

All parking areas located within the I-1 Industrial District which are not within fifty (50) feet of any street right-of-way shall be exempt from the landscaped area requirements of this Ordinance.

8.010407 Storm Water Management Plan

Off-street parking facilities shall be designed to prevent damage to abutting property and streets and to prevent pollutants from draining off the site. Landscaped areas and perimeter areas shall be so graded as to receive a reasonable portion of the rainfall from the surrounding pavement. Protective curbing around landscaped area will leave openings for the flow of water onto unpaved areas. Off-street parking facilities shall comply with the City's Storm Water Management Ordinance.

8.0105 Off-Street Loading

In any district, in connection with every building, or building group or part thereof hereafter erected and having a gross floor area of four thousand (4,000) square feet or more, which is to be occupied by commercial or industrial uses requiring the receipt or distribution of goods by trucks, there shall be provided off-street loading or unloading berths as follows.

TABLE 8.0105: OFF-STREET LOADING	
Gross Floor Area	Number of Berths
4,000 to 25,000 Square Feet	One (1) Berth
25,001 to 40,000 Square Feet	Two (2) Berths
40,001 to 60,000 Square Feet	Three (3) Berths
For each additional 50,000 Square Feet	One (1) Berth

The loading berth(s) required in each instance shall not be less than twelve (12) feet in width, thirty (30) feet in length, and fourteen (14) feet in height, and may occupy all or any part of any required yard except for a required front yard or waterfront yard; provided, however, that the loading berth(s) shall be screened from the street or public way. Loading berths shall be designed and located so as not to require the use of a public right of way to back into the loading area or otherwise obstruct a public right of way to utilize the loading area.

**ARTICLE 9
COASTAL AREA MANAGEMENT**

- 9.01 RESPONSIBILITY AND DEFINITION**
 - 9.02 COASTAL CONSTRUCTION LINE (CCL)**
 - 9.03 CONSTRUCTION IN THE COASTAL AREA**
 - 9.04 ADEM CONTRACT**
-

9.01 RESPONSIBILITY AND DEFINITION

9.0101 Responsibility

The Alabama Department of Environmental Management (ADEM) and the Alabama Department of Economic and Community Affairs (ADECA) have the responsibility in the Municipality of Orange Beach for ensuring the continuing quality of the coastal area of the Municipality. The Municipality of Orange Beach is a contract entity with the ADEM for some on site responsibilities, and for providing a Permit Information Center for public information and review.

9.0102 Coastal Area Definition

The Coastal Area is defined as the land area below the ten (10) foot contour interval, and extending three (3) miles from Mean High Tide into the Gulf of Mexico.

9.02 COASTAL CONSTRUCTION LINE (CCL)

ADEM and ADECA have established a surveyed line, roughly configuring the limits of the primary dune system of the beach, seaward of which construction is prohibited. This CCL was established to minimize danger to life, loss of public and private property, and beach erosion caused by flooding and wave action during storms. The primary dune system, in its natural state, provides a buffer which protects upland areas from flooding and wave action, and serves as a sand reservoir that feeds and aids in the stabilization of the beach. No construction setbacks from the CCL are required unless denoted in the ADEM permit.

9.03 CONSTRUCTION IN THE COASTAL AREA

All construction in the Coastal Area is subject to prior review, approval, and permit from ADEM. Applications for construction are available from the Municipality of Orange Beach. All construction will minimize damage to all dunes, including but not limited to, the primary dune system; restoration of damaged dunes will be required. All construction will preserve and protect existing wildlife and wildlife critical habitats as designated by the appropriate Federal and State agencies.

9.04 ADEM CONTRACT

The Municipality of Orange Beach is a contract entity with ADEM, and is therefore bound by ADEM's requirements and regulations for the Coastal Area. These requirements and

regulations are published in the ADEM Administrative Code 8, which reflects statutory authority.

ARTICLE 10
ARCHITECTURAL STANDARDS AND RESTRICTIONS

(rev. 10/17/2017 unless otherwise noted)

- 10.01 ARCHITECTURAL STANDARDS**
 - 10.02 ARCHITECTURAL RESTRICTIONS**
 - 10.03 SITE PLAN REQUIREMENTS AND ARCHITECTURAL REVIEW**
 - 10.04 MARINAS**
-

10.01 ARCHITECTURAL STANDARDS

10.0101 International Code Series

The Municipality of Orange Beach, Alabama, has adopted the International Code Series. All buildings of the Municipality must be constructed in accordance with these Codes. (rev. 06/01/2004)

10.0102 Enforcement

The enforcement of the Standard Building Code is designated by the Code and the Municipal Council to the Municipal Building Official.

10.0103 Appeal

Any aggrieved party may appeal a decision of the Building Official concerning building codes to the Building Code Board of Appeals, as set forth in the International Building Code. (rev. 06/01/2004)

10.02 ARCHITECTURAL RESTRICTIONS

No metal-sided, metal exterior-walled buildings, except for small accessory buildings to a residence, will be allowed to be constructed in the following zoning classifications:

- RS-1 Single-Family Residential District, except for properties in excess of three (3) acres
- RS-2 Single-Family Residential District
- RS-3 Single-Family Residential District
- RM-1 Multi-Family Residential District
- RM-2 Multi-Family Residential District
- NB Neighborhood Business District
- BR-1 Beach Resort District
- BR-2 Beach Resort District
- GB General Business District, except for dry boat storage buildings (rev. 04/15/2003)
- RO Retail Office District (rev. 01/15/08)
- MR Marine Resort District, except for dry boat storage buildings (rev. 04/15/2003)
- PUD Planned Unit Development, except for dry boat storage buildings (rev. 04/15/2003)

A building may be metal-sided or have metal exterior walls on the rear side of the building, provided that it is not adjacent to residentially zoned or used property. (rev. 04/15/2003)

Mini-warehouse buildings constructed on properties zoned GB and PUD may be metal sided if one (1) of the following three (3) criteria is met.

- a. The mini-warehouse building is sited to rear of a principal building; or
- b. The mini-warehouse building is sited more than one hundred seventy-five (175) feet from the right-of-ways of Canal Road, Orange Beach Boulevard, Perdido Beach Boulevard, and the Foley Beach Express; or
- c. Enclosed by an eight (8) feet privacy fence and meets all of the landscape requirements of the Zoning Ordinance. (rev. 04/15/2003)

10.03 SITE PLAN REQUIREMENTS AND ARCHITECTURAL REVIEW

10.0301 Purpose

The purpose of these requirements is to support and promote the goals and objectives of the Comprehensive Plan and to provide harmonious, functional relationships among the various elements within any development. The Orange Beach community is located within a fragile coastal environment which is highly sensitive to development pressures. The intent of these requirements is to prevent detrimental impact to the natural environment, on and off the site, by providing for review and evaluation of site plans. Wherever, in this Ordinance, site plan approval is required, the following procedures and requirements shall be followed; except where an interior use change does not result in exterior additions, and additionally, in this situation landscape requirements shall not be imposed; provided, however, that when additional parking is required pursuant to Article 8 of the Zoning Ordinance of the City of Orange Beach as a prerequisite to any change of use, or the addition to any building or structure, site plan approval shall be required.

10.0302 Site Plan Approval Required

These requirements shall apply to all new buildings, structures and development and any existing structure or building addition to any development, except that if the gross square footage of any one building or structure or the cumulative gross square footage of the entire development is thirty-five thousand (35,000) square feet or greater. The application for a project greater than thirty-five thousand (35,000) square feet shall also be subject to the rules and regulations of the Planned Unit Development provisions of the Zoning Ordinance prior to the issuance of a building permit. This Article shall not apply to single-family detached residential dwellings or duplex residential dwellings. These provisions do not apply to any building, structure or Planned Unit Development approved prior to the enactment of these provisions that would have been required to comply with Article 7 (Planned Unit Development) of the Zoning Ordinance. (rev. 11/20/2001)

10.0303 General Procedure

No building or structure, or part thereof, shall be erected or used, or land or water used, nor shall any building permit be issued therefore, unless a site plan for such building, structure or use shall have been approved.

a. Filing

Before the Planning Commission shall approve such site plan, an application for such approval shall be filed with the office of the Director of Community Development. (rev. 11/20/2001)

b. Application, Fee and Disclosure of Ownership

Such application shall be in a form substantially in accordance with the form prescribed by the City, copies of which may be obtained from the Director of Community Development's office. A written power of attorney authorizing a person other than the owner(s) to sign such application must be attached to and accompany said application. See the application for specific details of application requirements. (rev. 06/19/2001)

All applications shall include a verified statement of the ownership interest of each and every person, firm or corporation having a legal and/or equitable interest in the property, including liens, encumbrances, title certification in the form of a current title policy, title opinion, or title report and the nature of the developers interest, if the developer is not the owner.

Fees shall be required for filing said application according to the schedule adopted by the City Council.

c. Departments Review

The application shall be submitted to the office of the Director of Community Development. The Director of Community Development shall forward the application and attachments to other departments, which shall then proceed to make reviews and take into consideration the recommendations of other City departments concerned with the attendant problems including but not limited to waste water systems, refuse collection, surface water drainage, water supply, ecological and environmental factors, fire protection, screening for abutting residential properties, pedestrian and vehicular access, internal circulation and vehicular parking, and such other requirements as are deemed applicable to make an appropriate evaluation. The application with evaluative comments shall then be forwarded to the Planning Commission. (rev. 11/20/2001)

10.0304 Conformance with Zoning Ordinance and Other Regulations Required

Any such building, structure or use shall be in full conformity with the provisions of the Subdivision Regulations, the Zoning Ordinance, any other applicable local regulation or ordinance and with the site plan approved by the Planning Commission. (rev. 11/20/2001)

10.305 Considerations in Reviewing Site Plan

a. Site Location and Character of Use

The zoning districts, including bulk regulations, general provisions and the list of permitted accessory uses, off-street parking, landscaping, required open spaces, yards and building setbacks shall collectively be the principal guide in determining the suitability of the location of the proposed use. However, the density and/or intensity of the proposed use must also be compatible with existing uses within a distance of seven hundred fifty (750) feet from the property lines (hereinafter referred to as the impacted area) considering the following factors:

1. **Residential Density:** The gross density (i.e., units per gross land area of site) of specific site plans shall be compatible with the established range of densities within the impacted area. Higher densities are reserved for sites with the following characteristics:
 - a. Sites within highly accessible portions of the district nearest major thoroughfare(s) or minor collectors as opposed to internal residential streets;
 - b. Sites abutting the boundary of less restrictive districts where development of relatively higher density is permitted. (Similarly lower densities should be maintained near the boundary of more restrictive districts in order to provide for orderly land use transition and to protect the character of established neighborhoods);
 - c. Sites serviced by a sufficient system of public services to accommodate the proposed project which include, but are not limited to, improved streets, sanitary sewerage, water and storm sewers or other effective system(s) for managing storm water run-off; and
 - d. Sites having natural features including topography, soils, hydrology and other natural features which are adaptive to the more intense development.

2. Non-residential Development

In reviewing non-residential development(s) the intensity of the use shall be evaluated by applying the following and all other requirements of the Zoning Ordinance:

- a. The location is accessible to residential areas, for local retail services and trades catering specifically to the recurring shopping needs of the occupants of nearby residences;
- b. The proposed development does not increase the risk of flood, fire, explosion, toxic and noxious pollution, radiation and other hazards, offensive noise, vibration, smoke, dust and other noxious particulate pollution, and glare to both existing retail, service uses and nearby residences;

- c. The proposed development shall not diminish or adversely affect existing retail, service uses and/or nearby residences by increasing traffic so as to create undue vehicular congestion. Those types of establishments which generate heavy traffic shall provide for off-street parking and loading facilities and/or additional service or access roadways;
- d. The proposed development provides sufficient and appropriate open spaces. The developer shall provide open spaces and landscaped areas to facilitate surface drainage and enhance scenic quality;
- e. The development is in an appropriate location for the proposed use(s) and will provide protection to established or impacted areas and alleviate any potential adverse impacts in any transitional areas in which dissimilar uses exist;
- f. The development is a compatible activity within the impacted area and conforms to the Comprehensive Plan by promoting stability of existing uses, the character of the district, and protects the general health, safety and welfare of the City.

b. Appearance of Site and Structures

The choice of building materials, landscaping, colors, lighting and other building and site improvements shall be commensurate with or improve the impacted area without generating adverse visual impact on surrounding properties or transportation corridors. Architectural style or design is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design characteristics and relationship to the district in which it is located considering the following factors:

- 1. The exterior and placement of buildings and structures, including appearance, scale, size, mass, facade and its orientation, along with roof line and building materials shall be in harmony with the site and other construction in the district and/or impacted area.

Awnings or other ornamental features designed in a manner harmonious with the building design shall be of appropriate scale, shape, color scheme and pattern in order to reinforce good design principles. Similarly, functional and/or ornamental features shall not use incompatible or extraordinary scale, shapes, color schemes, patterns or other extraordinary features for purposes of attracting attention.

For retail and general business uses, any side of a building or structure greater than seventy-five (75) feet in length shall incorporate recesses and projections along at least twenty percent (20%) of the length. Recesses and projections shall be of sufficient measurements to affect the intent of this provision. Recesses and projections shall be allocated along the length of the facade. Facades not meeting this requirement shall not be approved under this article. Windows, awnings and arcades must total at least sixty percent (60%) of the facade length

facing a public street. Smaller retail shops or stores that are part of a larger principal building shall have display windows and separate outside entrances. Smaller stores are encouraged by the City. (rev. 05/17/2005)

Each principal building shall have a clearly defined, highly visible customer entrance with features such as canopies or porticos, arcades, arches, wing walls, and integral planters. All sides of a principal building that directly face an abutting public street shall feature at least one (1) customer entrance. Where a principal building directly faces more than two (2) abutting public streets, this requirement shall apply only to two (2) sides of the building.

All facades of a building that are visible from adjoining properties and/or public streets shall be similar in color and a design similar to a front facade.

2. Architectural interest in the main structure shall be accomplished by the use of a repeating pattern of change in color, texture, and material modules. At least one (1) of these items shall repeat horizontally. All elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or vertically. Colors shall be harmonious with development in the impacted area, and bright or brilliant colors used only for accent. Predominant exterior building materials shall be of high quality. These include, but are not limited to, brick, wood, sandstone or stucco, other native stone and tinted/textured concrete masonry units. Unpainted, smooth faced concrete block, non-architectural grade, tilt-up concrete panels or prefabricated steel panels are prohibited as the predominant exterior building materials on front facade.

Facade colors shall be of low reflectance, subtle, or colors consistent with the surrounding impacted area or natural environment. Building trim may feature brighter colors but neon tubing is not allowed as an accent material. Neon lighting shall not be used to accent eaves, edges, roof tops, or add unnecessary elaborateness to a structure.

3. Variations in rooflines are required to reduce the massive scale of structures and add visual interest. Roofs must have at least two (2) of the following features: parapets concealing flat roofs and roof top equipment, overhanging eaves, sloped roofs and three or more roof slope planes. Mechanical equipment or other utility hardware other than antennas and stacks on roofs and any other exterior service areas shall be harmonious with the building or they shall be located and/or screened so as not to be visible from any public ways within the impacted area.
4. Refuse and waste removal areas shall be screened from adjacent properties and public ways by appropriate fences, walls or hedges. Service areas shall be located to the rear of a building or structure and shall not be located in the front setback. In cases where dumpsters are proposed to be located in areas visible from any public right-of-way, the Planning Commission shall be authorized to require appropriate vegetative or structural screening to shield an unsightly condition.

5. All manufacturing and/or processing shall be conducted within completely enclosed buildings in the GB and I-1 districts and more restrictive districts.
6. Automobile and dry boat storage businesses and contractor storage yards for vehicles, equipment, materials and supplies not enclosed within a solid structure shall be enclosed by a privacy or solid fence on all sides and shall have a height of eight (8) feet. The exterior side shall be smoothed and non-framed. (rev. 07/17/2007)
7. Exterior lighting shall be so arranged as to shield or deflect light away from adjoining properties and public streets. Lighting shall be of a pedestrian scale, limited to a maximum height of twenty-six (26) feet. The intensity of the light shall be provided in lumens, foot-candles, and wattage so a determination can be made that it is appropriate for the premises' proposed use. Sign regulations of the Zoning Ordinance shall be complied with. Lighting shall be shielded adjacent to Highway 182 to eliminate reflection towards the beach. (rev. 01/16/2001)

c. Access, Internal Circulation and Off-street Parking

1. If the total number of required parking spaces equals twenty-one (21) spaces or more, no more than fifty percent (50%) of the off-street parking area for the entire property may be located between the front facade of the principal building and the primary abutting street, except this requirement shall not apply to properties having frontage on a navigable waterway or developments located within the Beach Overlay District. See Section 10.0306 for Beach Overlay District requirements. Driveways and areas for parking and internal circulation of vehicles shall be located, designed and controlled so as to provide for safe and convenient circulation within the site and safe and convenient access from adjoining streets. Requirements of Article 8 of the Zoning Ordinance shall be applied for off-street parking. Among factors to be considered shall be the number and location of access drives from adjacent streets, the location and width of driveways and access aisles to parking spaces, the arrangement of parking areas and means of access to buildings for fire-fighting apparatus, other emergency vehicles and landscaping. (rev. 05/17/2005)
2. Parking areas and driveways shall be clearly identified and separated from principal pedestrian routes by curbs, pavement markings, planting areas, fences or similar features designed to promote pedestrian safety. The site shall be designed in such a way that its pedestrian path(s) or trail(s) can be connected to any existing or proposed offsite pedestrian path(s) or trail(s).
3. Vehicular access to adjoining minor residential streets shall not be permitted when the Planning Commission determines adequate access is available to collector streets or major thoroughfares and when adequate access for emergency vehicles can otherwise be provided.
4. Loading docks, trash collection, and similar uses and functions shall be incorporated into the overall design of the building and landscaping so that the visual and acoustic impact of these functions are contained and out of view or

hearing from adjacent properties and public streets to the most practicable extent possible.

5. Any property owner (or their representative) who intends to construct a vehicular turnout or driveway onto any federal, state, county or, city highway or street, shall be required to make application for and obtain the following permit and / or inspection, as appropriate:
 - a. If a state highway, an Alabama Department of Transportation Driveway or Turnout Permit;
 - b. If a county highway or road, a Baldwin County Highway Department Driveway or Turnout Permit;
 - c. If a city street, an Orange Beach Streets Department Inspection and Driveway Permit.

A building permit shall not be issued unless and until the appropriate driveway or turnout permit(s) has been issued by the Authority Having Jurisdiction (AHJ) and a copy of the permit filed with the Department of Community Planning (Planning Division). (rev. 06/19/2001)

Exceptions: An applicant for a duplex or a single family residence on a single lot shall only be required to submit a driveway application and plan (Exhibit B) with the application for a building permit, which shall be forwarded to the Streets Superintendent for his review and approval.

Application and Standards: The form of application shall be as prescribed by the AHJ (county or state). The application, standards, specifications and drawings for a driveway or turnout connection to a city street or highway shall be in substantial conformity with Exhibit A.

General Procedure and Departmental Review

Filing: No driveway or turnout, temporary or permanent, shall be installed or used unless and until a permit for such driveway has been issued by the AHJ.

Procedure: The applicant shall submit a copy of the appropriate application meeting all the AHJ's standards, simultaneously with the application for site plan review. The Streets Department comments shall be forwarded to the Department of Community Planning (Planning Division) for inclusion in the Planning Division's report to the Planning Commission.

Review: Applications for construction of a driveway or turnout connection are reviewed for consistency to applicable requirements. Applications to connect to city streets or highways are reviewed and either approved, approved with modifications or denied in conjunction with the site plan review. Any application for a driveway or turnout proposed within one hundred fifty (150) feet of a major intersection (defined as an intersection of two (2) or more streets with a traffic

light signal) shall first be approved by the Planning Commission, regardless of whether the street or highway is a federal, state, county or city facility. (rev. 06/19/2001)

Fees: Fees shall be required for filing a driveway or turnout permit application for connection to a city street or highway according to the fee schedule adopted by the City Council.

Inspections: Prior to commencement of construction of any driveway or turnout, the applicant shall stake the proposed driveway(s) or turnout(s) in the field for inspection and confirmation of location and compliance to city requirements by the Streets Superintendent. Upon completion of all work within a right-of-way, the applicant shall call the Streets Superintendent for another, final inspection. The cost of any remedial work to comply with any AHJ's requirements shall be borne by the owner or applicant. (rev. 04/09/2001)

d. Pedestrian Considerations

Retail establishments shall be required to provide pedestrian-friendly amenities, including but not limited to, a patio/seating area, water feature, clock tower, or pedestrian plaza with benches.

A continuous internal pedestrian walkway must be provided from the public street to the principal customer entrance. This internal walkway shall feature landscaping, benches, and other such materials/facilities for no less than fifty percent (50%) of its length. Sidewalks shall be provided along the full length of the building along any facade featuring a customer entrance. Any sidewalks along other facades shall be located at least six (6) feet from the facade of the building to provide planting beds for foundation landscaping. Internal pedestrian walkways shall provide a weather protection feature such as an awning within thirty (30) feet of all customer entrances. The internal pedestrian walkways must be distinguished from driving surfaces through the use of special pavers, bricks, or scored concrete to enhance pedestrian safety and the attractiveness of the walkways. Additional sidewalks, including sidewalks in the public right of way abutting the site, may be required by the Planning Commission when they determine that such sidewalks are in the interest of public safety. (rev. 11/20/2001)

e. Open Space and Landscaping

1. Open space and setbacks between lot lines and/or buildings required by this Ordinance shall be located and improved to reasonably serve the purposes for which the requirements are intended. These purposes include provisions of adequate light and air, appropriate separation between buildings and uses, enhancement of privacy, sufficient area for recreation and leisure pursuits (in residential areas) and to facilitate surface water drainage.
2. The landscape and tree protection provisions of this Article shall be satisfied. The natural landscape of the site shall be preserved as much as possible for purposes of enhancing the general appearance of the site as well as to prevent

excessive storm water run-off, erosion, siltation and dust. It is an intent of this Article to conserve the vegetative character of the community.

3. In order to maintain stability of residential areas, non-residential development within or abutting residential districts and uses and multiple family development abutting single family residential districts and uses, shall provide a wall or hedge or other durable landscape barrier not less than six (6) feet in height to form a continuous screen along such abutting property lines. In addition, one tree (a minimum of eight (8) feet clear trunk) shall be provided for each fifty (50) feet linear feet or fraction thereof of such landscape barrier. Credit may be given for existing plant material against the requirements of this Article. Adjustments may be rendered by the Planning Commission to the requirements of this Article.

f. Flood Prone Land

Construction in flood prone areas shall comply with the City's Flood Damage Prevention Ordinance.

g. Provision of Adequate Public Services

In compliance with the Comprehensive Plan, appropriate facilities for providing electricity, telephone, potable water, sanitary sewerage, solid waste disposal, surface water drainage, vehicular access and fire protection shall be incorporated in the site plan. These facilities shall be reviewed by appropriate City administrative personnel including the City Engineer, Public Works Director, Fire Chief, Building and Zoning Official, and the Director of Community Development. These administrative personnel shall provide evaluative comments to the Planning Commission to facilitate the Commission's review. A concept plan for Storm Water Management shall be supplied by the applicant with the application for a site plan. Prior to application for a building permit a detailed storm water plan prepared by a professional engineer or registered architect, registered in the State of Alabama shall be approved by the Director of Community Development. An Alabama registered professional engineer or registered architect shall certify that the storm water management plan has been appropriately implemented prior to the issuance of an occupancy permit. (rev. 11/20/2001)

h. Provision of Construction Lay Down Yard and Workers Parking

The site plan applicant shall demonstrate to the Planning Commission their provisions for a construction lay down yard and adequate parking for all of the construction workers. The areas shall be clearly delineated on the site plan showing parking spaces and material storage areas with appropriate security or buffering fencing. (rev. 02/04/2008)

i. Storm Water Management

In order to control storm water runoff and minimize impact on existing City and/or Alabama Department of Transportation drainage facilities and further to aid in the protection of the quality of ground and surface waters, the conceptual and detailed

site drainage plan shall comply with requirements of G. above and Ordinance #2001-620 Storm Water Management. (rev. 02/19/2002)

j. Additional Considerations

The Planning Commission may require additional information by the applicant for site plan review in order to carry out a review process, which is necessary to fulfill the purpose, intent and spirit of this Article. (rev. 11/20/2001)

k. Protective Shoreline Structures

Protective shoreline structures are designed to protect upland structures. Such shoreline structures have an erosive impact on adjacent and down-drift properties. Such structures are prohibited seaward of the coastal construction control line unless a variance for such construction has been approved by the Board of Adjustment, the Corps of Engineers, and the State of Alabama Department of Environmental Management. The following criteria shall be used in evaluating proposed structures:

1. **Location:** Structures shall be located as close as practical to the structure it is designed to protect in order to minimize erosion and provide for natural dissipation of energy from wave impact.
2. **Alignment:** Structure should extend the full length of the property to be protected and wing (or return) walls shall be tied into the upland to minimize flanking and subsequent erosion to adjacent property and entry of water behind the frontal structure and subsequent interior erosion.
3. **Slope:** A sloping subgraded revetment or other equally adequate toe protection shall be provided along the bottom of the seaward facade and wingwalls to minimize scour, provide for more natural dissipation of energy from wave impact, and assist in stabilizing buildup of the beach.
4. **Height:** The elevation of the structure shall correspond to the projected wave run-up. This projection shall be based on water depth, tide, slope of sea bottom, wind and current analysis, and design of the structure.
5. **Drainage:** An efficient drainage system shall be installed including use of a porous filter material and weepholes or equally adequate alternatives to stabilize and retain the earth landward of the wall and provide for free movement of water to prevent buildup of water pressure behind the wall.
6. **Anchorage:** The anchor, tieback system and foundation shall be designed adequately to minimize incidence of failure caused by soil displacement or excessive settlement. All wood materials shall be appropriately treated.
7. **Sand Vegetative Cover:** Structures shall be covered with sand where practical. A sand replenishment program and appropriate native indigenous vegetative planting and maintenance program to assist in stabilizing and/or regenerating the dune system shall be provided.

- 8. Other Considerations:** The Planning Commission may also consider recommendations of the Alabama Department of Conservation, Marine Resources Division, and the U.S. Fish & Wildlife Agency, Alabama Department of Environmental Management and the Army Corps of Engineers.

10.0306 Beach Overlay District (rev. 05/17/2005)

The provisions of the Beach Overlay District apply to new construction, additions or structural alterations on all land within the designated district. These provisions shall serve to supplement underlying zoning regulations in order to support the stated purpose of the district, and shall control in the event of conflict.

Single-family dwellings and two-family duplexes are exempted from the provisions of the Beach Overlay District. However, construction of an eight (8) foot sidewalk along the State Highway 182 right-of-way, in alignment with and connecting to that of adjacent properties, is required.

a. General Building Design Standards

1. Pedestrian-oriented areas shall be constructed within the front twenty (20) feet of the property abutting State Highway 182, or ten percent (10%) of the average lot depth*, whichever is less, subject to the following:
 - a. A hardscaped area shall be provided, equal to fifty percent (50%) of the pedestrian-oriented area, comprised of an eight (8) foot (minimum) sidewalk and pedestrian amenities such as plazas, fountains and benches. Sidewalk shall be aligned with and connected to that of adjacent and contiguous properties. In order to assure pedestrian connectivity, additional sidewalk connections to the street pedestrian/bicycle path shall be provided in cases where no sidewalk exists on adjacent properties. The remainder shall be pedestrian-friendly landscaping and vehicular use area buffers, where applicable, subject to Section 10.0306 C. below.
 - b. Grade changes within the pedestrian-oriented areas shall be minimized in order to support pedestrian uses. The Planning Commission may approve grade changes within the pedestrian-oriented area where compliance with the Federal Emergency Management Agency (FEMA), handicap accessibility and /or stormwater rules and regulations necessitates the grade changes.

The width of the pedestrian-oriented area may vary and equivalent areas grouped along the right-of-way to encourage creative design and facilitate site layout.

*The average lot depth of properties located on the south side of State Highway 182 shall be determined by utilizing the average property depth between the right-of-way and the Coastal Construction line (CCL).

2. All sides of a principal building that directly face an abutting street shall have a clearly defined, highly visible customer entrance and must be accessible from the sidewalk. Where allowed by zoning district, every effort shall be made to place general business use establishments along the street frontage to promote and enhance the pedestrian environment. Canopies and awnings, with or without structural supports, are required along the fronts of buildings, creating an arcade, and are allowed within the front yard setback, but shall be setback a minimum of fifteen (15) feet from the right-of-way. Arcaded areas may not be enclosed or screened. Courtyard areas located adjacent to the pedestrian-oriented area may be devoted to the pedestrian-oriented space requirement as provided in subsection A.1. above.
3. Where allowed by zoning district, outdoor cafes are permitted within the front setback, arcaded areas, and open courtyards, and may be enclosed with a hedge or removable decorative fence or wall, with a maximum height of thirty (30) inches. A minimum fifteen (15) foot setback must be maintained along the State Highway right-of-way.
4. The maximum average width of residential and general business structures greater than five (5) stories in height shall be three hundred (300) feet, excluding the parking structure underneath. The width restriction shall not apply to the parking structure underneath the building, if exempted from the height limitation per Table 4.0403.
5. Building façades that are visible from the street and surrounding property must incorporate architectural features to break up large wall planes into smaller components and add visual interest. No more than thirty percent (30%) of consecutive façade may remain without architectural detail, including but not limited to balconies, recessed walls, changes in color and/or texture, varying rooflines, curved or angled walls, fenestration and cantilevers. Neon tubing is prohibited.
6. For structures greater than fifty (50) feet in height, the building width and/or depth shall be reduced at varying heights to create a tiered effect of the building profile. The sum of the dimensional changes in setback, applied to the front and side façades of the building, shall be equal to or greater than twenty percent (20%) of the building height. This requirement may be combined and applied to one or more of the building front and side façades.
7. Rooftop features are required to reduce the massive scale of the structures and add visual interest. These features may be comprised of pitched roofs, parapets, spires, elevator bulkheads, recreational facilities, pool houses and cabanas, viewing areas and other permitted accessory uses (excluding residential and hotel units). The maximum height of these features shall not exceed forty-five (45) feet or twenty-five percent (25%) of the building height (excluding the rooftop features), whichever is less. Enclosed rooftop accessory uses shall be limited to single-story and not be included in and applied to the maximum allowable number of stories set forth in Table 4.0403. Rooftop features shall contribute to

the overall quality of the building design characteristics and surrounding structures.

8. Building mounted lighting or lighting on above grade decks or balconies shall be fully shielded where visible from the street, beachfront or adjacent properties. An outdoor lighting plan shall be submitted in conjunction with the Planning Commission application and subject to establishment and approval through the applicable review process. Said lighting plan shall provide the location, type and details of light fixtures, ensuring compliance with this provision and Section 10.0305B.6.

b. Vehicular Use Areas

Surface parking shall be located or buffered in a manner that shields the vehicular use areas from view of pedestrian-oriented areas.

All on-site vehicular use areas within the district must comply with the provisions of Article 8.

1. All parking for general business uses shall be located on the side or rear of the building or within a parking structure, unless located in a manner that prevents visibility from the street. Shared driveway access between properties is encouraged to minimize the number of ingress/egress points along State Highway 182. The Planning Commission may allow vehicular use areas to be located within the required side yard in consideration of shared ingress/egress between properties. An agreement for the shared access, in the form of a private easement, or other method acceptable to the Director of Community Development, shall be filed with the project application and recorded in the public records of Baldwin County.
2. Seventy-five percent (75%) or more of the required parking for multi-family, townhouse, condominium and hotel developments shall be provided within a parking structure, partially or entirely located under/within the principal building structure. The balance of the required parking shall be located on the side or rear of the building unless located in a manner that prevents visibility from the street. The Planning Commission may approve a maximum of five (5) parking spaces to be located in the front of the building for temporary use such as pick-up/drop-off and delivery. These spaces shall not be included in or counted towards the required number of parking spaces for the proposed use(s).
3. Parking structures must be designed to be architecturally compatible with the principal building structure and provide screening of parked vehicles from the street and adjacent property.
4. Fifty percent (50%) of the required parking surface shall be constructed of a permanent pervious material. In making the determination of the suitability of the pervious material, the Director of Community Development shall find that such material:

- a. Provides a safe and permanent surface, suitable for the quantity and quality of traffic expected to use it; and
 - b. Provides a surface that will not contribute to erosion or sedimentation, either on-site or off-site; and
 - c. Provides a surface that will accept delineation of parking spaces, aisles, accessways and maneuvering areas.
5. Drive-thru window services and queuing lanes for such services shall not be located between the front façade of the building and State Highway 182, and must be designed so as to have minimal impact on pedestrian traffic.
 6. Vehicular use areas of mixed use developments shall be designed in a manner consistent with the requirements of this section.

c. Landscaping

1. In cases where a vehicular use area is visible to the Highway 182 pedestrian-oriented area, an eight (8) foot buffer shall be required, consisting of at least the following:
 - a. A row of evergreen or semi-evergreen trees, such as yaupon holly, ligustrum, red cedar, (sand) live oak or drake elm, planted twenty (20) feet on center. Trees shall be eight (8) feet to ten (10) feet in height with four (4) feet to six (6) feet spread at planting.
 - b. A row of evergreen shrubs between trees, such as ligustrum, viburnum, wax myrtle, thryallis or juniper, planted five (5) feet on center. Shrubs shall be five (5) gallons, thirty (30) inches to thirty-six (36) inches high and twenty-four (24) inches to thirty-six (36) inches spread (multi-stemmed) at planting.
 - c. Lawn, low-growing evergreen shrubs, evergreen ground cover and mulch covering the balance of the buffer.

With the exception of the vehicular use area perimeter buffer requirement as specified in this section, all off-street parking and vehicular use areas shall be landscaped according to the requirements of Article 16.

2. To add color and soften sidewalk paving with vegetation, tree islands and planters shall be located within pedestrian-oriented areas where appropriate. Tree species and locations must be suitable for pedestrian areas and maintained in a manner that will not obstruct pedestrian traffic. Tree grates shall be provided where needed as determined by the Community Development Department.
3. The natural landscape of the site shall be preserved to the greatest extent possible for purposes of preserving the natural resources of the City, enhancing the general appearance of the site, as well as providing erosion and sediment control.

d. General Fencing Requirements (rev. 06/02/2009)

- 1. Permitted Materials:** Fences shall be constructed of wood, composite wood, brick, fieldstone, masonry, wrought iron, vinyl or other permanent materials designed for permanent fencing that is not prohibited by this Ordinance. Sand fencing and split rail fencing may be permitted upon staff review and approval.
- 2. Prohibited Materials:** Fences shall not be constructed of barbed wire, single-strand wire, rope, or of used or discarded materials in disrepair, including, but not limited to, pallets, tree trunks, trash or other similar items. Materials not specifically manufactured for fencing, such as railroad ties, wood panels, galvanized sheet metal, landscaping timbers or utility poles shall be prohibited.
- 3. Chain Link Fencing:** Permanent vinyl coated chain link fencing may only be permitted when enclosing a basketball court, tennis court, or other similar recreational facility. Temporary chain link fencing may be used on a site when an active site and/or building permit has been issued for the site, but must be removed whenever the permitted activities on the site have been completed or the site and/or building permit have expired.
- 4. Post and Supporting Members:** Fences shall be installed with the finished side facing the adjacent property or public right-of-way. Fence posts must be located on the inside of the fence facing the property on which the fence is located. Post and supporting members may be viewable if the fence has a shadowbox design or uses panels across the front and back to give the fence a finished appearance on both sides. Fences composed entirely of fence posts and incomplete fences consisting only of posts and supporting members shall be prohibited.
- 5. Front Yard:** Fences and walls may be located within required front yard provided that the height does not exceed thirty (30) inches. Decorative architectural features on walls/fences shall not be included in the height except that it shall not extend more than one (1) foot above the maximum height and have a minimum spacing of eight (8) feet between it. The Planning Commission may approve a wall or fence greater than thirty (30) inches where compliance regulations justifies the height or when the wall or fence is proposed to enclose trash receptacles and/or above-ground components of a public utility system and meets the conditions of Article 5.0301.
- 6. Side and Rear Yard:** Fences and walls may be located within the required side and rear yards provided the height does not exceed six (6) feet.
- 7. Placement:** Fences shall be no closer than six (6) inches to a public sidewalk.
- 8. Maintenance:** Fences shall be maintained in a manner to prevent, rust, corrosion and deterioration so not to become a public or private nuisance and so not to be dilapidated or a danger to adjacent property owners or the public.
- 9. Existing Fences:** Any fence existing upon the effective date of this Ordinance that does not meet the requirements of this Ordinance shall not be enlarged,

extended or replaced, except in strict compliance with all requirements of this Ordinance. Nonconforming fences existing upon the effective date of this Ordinance shall be removed, altered, or otherwise made to conform to the provisions of this Ordinance within seven hundred thirty (730) days of its passage.

10.0307 Approval by Planning Commission

The Planning Commission shall not give final site plan approval unless it finds that such site plan conforms to all applicable provisions of the Zoning Ordinance and that the safety and convenience of the public are properly provided for. (rev. 11/20/2001)

10.0308 Approval Subject to Conditions

The Planning Commission may condition its approval of a site plan with any conditions, limitations or requirements necessary to effectuate the requirements of this article and carry out the spirit and purpose of the Comprehensive Plan.

10.0309 Information Included in Site Plan

A site plan, for the purposes of this Section, shall include, but may not necessarily be limited to, the following requirements:

- a. Site plan with grades, finished ground floor elevations, contours and designating the number of dwelling units, square footage of site, building coverage, square footage of paved areas, and open area.
- b. A scaled drawing of the sides, front, and rear of the building or structure, generalized floor plan indicating uses and square footage of each proposed use of all buildings or structures, and building exterior construction material and color.
- c. Location and character of all outside facilities for waste disposal, storage areas or display.
- d. All curb cuts, driveways, parking areas, loading areas, surface materials, number of employees and number and type of vehicles owned or used by the establishment.
- e. All pedestrian walks, malls, yards and open spaces.
- f. Location, size, character, height or orientation of all signs as required in Article 15 of the Zoning Ordinance.
- g. Location and general character of landscaped areas based on criteria in this Article.
- h. Location and general character of all existing curb cuts, driveways, parking areas, and loading areas within one hundred (100) feet of any proposed curb cuts, driveways, parking areas or loading areas.

- i. A site plan with vehicular use areas less than or equal to one (1) acre shall have a landscape plan prepared by a professional engineer or landscape architect registered in the State of Alabama. A site plan with a vehicular use area exceeding one (1) acre shall have a landscape plan prepared by a landscape architect registered in the State of Alabama. Landscape plans shall meet all requirements showing: (rev. 10/17/2017)
 - 1. Landscaped areas.
 - 2. Location, height and material for walks, fences, walkways, and other man-made landscape features.
 - 3. Any special landscape features such as, but not limited to, man-made lakes, land sculpture and waterfalls.
 - 4. Designation of all protected trees to be removed and retained on site. (rev. 02/21/2006)
- j. Location of existing easements and rights-of-way.
- k. Boundary survey with complete legal description prepared and certified by a surveyor registered in the State of Alabama. All architecture or engineering designs must be prepared and sealed by a professional architect or engineer registered in the State of Alabama pursuant to Alabama Statutes as exists or hereafter amended.
- l. A signed and sealed tree survey of the project site prepared by an engineer or land surveyor registered in the State of Alabama showing the location, species and size of all on site trees and off site trees within twenty-five (25) feet of proposed construction and earthwork. (rev. 02/21/2006)

10.0310 Modification of Site Plan

These provisions do not apply to any Planned Unit Development, any building or structure built prior to the enactment of these provisions that would, upon the adoption date of these regulations, have been required to comply with Article 7 (Planned Unit Development). When minor changes are made such as:

- a. Minor adjustments or shifts in the location and sighting of buildings, structures, parking bays and parking spaces;
- b. Addition of awnings, canopies or ornamental structures, redesign and different location of pools, parking spaces, drives and driveways, modifications in stairs or elevations of decks, porches, terraces and fencing, walkway and bikeway systems;
- c. Changes in the location of utility tie-ins and dumpsters;
- d. Changes in the location and types of landscape materials, excluding changes in the location of buffers;

- e. Addition of parking spaces not to exceed five percent (5%), including fractions thereof, of the total number of existing parking spaces or five (5) spaces, whichever is the lesser amount;
- f. Attached or detached additions to buildings which do not increase the floor area in excess of five percent (5%), but not more than four hundred (400) square feet of the floor area of the principal structure, whether or not additional parking is required;
- g. Installation of utility system improvements including buildings not exceeding two hundred fifty-six (256) square feet. Approval of minor changes only requires authorization after review and approval of the Zoning Official and the Building Official. If approved as a minor change, the site plan shall not be required to be returned to the Planning Commission for resubmission. The Director of Community Development shall report each change so approved to the Planning Commission for the record at the next scheduled meeting. (rev. 06/19/2001)

The Planning Commission shall prescribe the application form for a Minor Site Plan modification to any site.

10.0311 Termination, Extension and Transferability

Site plan approval shall terminate one year after being granted if the owner has not applied for a building permit. Site Plan approval shall also automatically terminate upon revocation or expiration of a building permit. In the event the property receiving site plan approval is transferred, the site plan approval shall be transferable for the approved development only, consistent with the above one year time frame. (rev. 03/15/2005, 10/16/2007)

The Orange Beach Planning Commission may grant a one (1) time extension on a site plan if the applicant can show evidence they are moving forward with the development. The length of the extension is up to the discretion of the Planning Commission but in no case can it exceed one (1) year. The applicant must submit a written request to Community Development thirty (30) days before the site plan expires. (rev. 07/01/2008)

10.0312 Approval, Disapproval and Appeal Procedure

- a. Only after the approval of a site plan (and the submission to the Planning Division of any revised plans as required due to modifications) by the Planning Commission, a building permit may be issued by the Building Official. However, any applicant for site plan approval, or any other aggrieved person having an interest therein, may file an appeal to the City Council to review the action of the Planning Commission in allowing or disallowing such application for site plan approval. The appeal shall be in writing and filed with the Director of Community Development within ten (10) days from the date of final action of the Planning Commission. The Director of Community Development shall forward the appeal to the City Clerk's office for placement on the City Council agenda as expeditiously as possible. The Council shall thereupon set a date for a public hearing with regard to such appeal. After giving public notice in such manner as required by law, all interested parties shall have the right to appear before Council at such public hearing, the Council shall render its decision. The decision of

the City Council shall be final. Any aggrieved party may appeal such final decision to the Circuit Court.

- b. No permits shall be granted by the Building Official until the time for appeal as herein provided shall have expired, and when such an appeal is filed, no such permit shall be issued until after final determination of such appeal has been made by the City Council. Appeal to the Courts shall not bar the issuance of permits, however, the party seeking the permit shall bear all risk for proceeding.
- c. If the Planning Commission denies a site plan approval, it shall specify the reasons said plan was denied with specific reference to those sections of the applicable City ordinances on which said denial was based. No reasons other than those relied upon shall be presented upon any appeal. (rev. 11/20/2001)

10.0313 Violations

Any person who commences any work before obtaining site plan review approval pursuant to the requirements of Article 8.010405 and Article 10.0302 shall be subject to a penalty of one hundred percent (100%) of the usual site plan review permit fee in addition to the required permit fee. An aggrieved person may file an appeal with the Planning Commission to revoke such fines. The appeal shall be in writing and filed with a site plan review application. The decision of the Planning Commission shall be final. (rev. 11/19/2002)

Failure to comply and continually maintain all approved elements of an approved site plan, including landscape, appearance and other site development features, and including conditions as specified by the Planning Commission shall be a violation of this Article subject to enforcement and penalty procedure of Article 12, Administration, Zoning Ordinance.

10.04 MARINAS (rev. 07/03/2007)

10.0401 Information Required

Applicants desiring to develop marinas within the jurisdiction of this Ordinance are required to follow the stated procedure for the consideration of an application for a Planned Unit Development, but must also include the following information in the Master Land Use Plan, some of which shall be required for approval from other agencies:

- a. Wetland impacts associated with the construction and operation of marina facilities;
- b. Potential discharge of wastewater from live-aboard, transient, or day use boats;
- c. Impact of project on navigation;
- d. Potential air and noise pollution and dust emissions from the project;
- e. Potential oil and gas contamination of adjacent waters;
- f. Impact of traffic on adjacent uses; and
- g. Other factors of the marina which would have an impact on the community, coastal waters, or wildlife.

10.402 Development Requirements

- a.** Development is preferred at non-wetland sites and in deep waters requiring no dredging. Developments requiring dredging or access through wetland sites must be designed to minimize the impact on wetland habitats. Development in wetland areas will require the approval of the U. S. Fish and Wildlife Commission.
- b.** Live-aboard boats shall be required to connect to berth side sewer/central sewer facilities, and no discharges to coastal water shall be permitted; live-aboard boats shall be equipped with Class III non-discharge and marine sanitation devices.
- c.** Adequate water circulation shall be maintained within the marina areas to maintain water quality.
- d.** Marinas shall provide a program to minimize or eliminate the discharge of pollutants, i.e., oil, gas, wastewater, etc., from vessels docked at the marina.
- e.** On-shore restroom and shower facilities shall be required.
- f.** Sufficient trash receptacles shall be provided for the depository of trash and garbage from on-shore facilities and docked vessels. Additional and separate facilities shall be provided for the disposal of fish processing wastes from boats or on-shore facilities, including trash fish, shrimp heads, etc.
- g.** All necessary permits must be received from the U. S. Corps of Engineers, U. S. Fish and Wildlife Commission, and other applicable State and Federal agencies.

ARTICLE 11
BOARD OF ADJUSTMENT

(rev. 06/19/2001 unless otherwise noted)

- 11.01 BOARD OF ADJUSTMENT**
 - 11.02 PROCEDURE**
 - 11.03 POWERS AND DUTIES**
 - 11.04 DECISION**
 - 11.05 APPEALS**
 - 11.06 VARIANCES**
 - 11.07 JUDICIAL REMEDY BY CIRCUIT COURT**
 - 11.08 COMPLIANCE WITH THE CODE OF ALABAMA**
-

11.01 BOARD OF ADJUSTMENT

The Code of Alabama, §11 52 80, as amended, provides for the creation of the Board of Adjustment, its composition, qualifications, appointment, terms of office and removal of members, vacancies, adoption of rules of procedure, meetings, record of proceedings, procedure for appeals to Board from decisions of administrative officials, and the power of the Board as to appeals.

The Board of Adjustment consists of five (5) members and two (2) supernumerary members appointed by the Municipal Council. Each member is appointed for a term of three (3) years. Members of the Board of Adjustment may be removed for cause by majority vote of the Municipal Council upon written charges and after a Public Hearing.

Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Members of the Board of Adjustment must be permanent residents and property owners within the Municipality of Orange Beach. All members of the board, including supernumeraries, shall be bona fide residents and qualified electors of Orange Beach.

11.02 PROCEDURE

11.0201 Rules

The Board of Adjustment shall elect a Chairman and Vice Chairman from among its members. The Chairman shall be the presiding officer of the Board and the Vice Chairman shall be the Presiding Officer in the Chairman's absence or disqualification. The terms of all officers shall be for one year, with eligibility for reelection. The Board may establish its own procedures of operation.

11.0202 Minutes and Records

The Board of Adjustment shall keep minutes of its proceeding, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and of other official actions, all of which shall immediately be filed in the office of the Board and shall be a public record.

11.0203 Meetings Open to Public

All meetings of the Board of Adjustment shall be open to the public.

11.03 POWERS AND DUTIES

11.0301 Appeals

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

11.0302 Variances

It is the duty of the Board of Adjustment to authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship and so that the spirit of this Ordinance shall be observed and substantial justice done.

11.04 DECISION

The concurring vote of four (4) of the five (5) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Official or to decide in favor of the appellant in respect to any matter upon which the Board of Adjustment can legally act.

11.05 APPEALS

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer in the enforcement of this Ordinance. Such appeal shall be made within thirty (30) days after rendition of the order, requirement, decision or determination appealed from in writing to the Board of Adjustment and file same, and ten (10) copies of supporting facts and data with the Zoning Official. This does not, however, restrict the filing of a request for a variance by any person at any time as provided for elsewhere in this Article. (rev. 06/19/2001)

11.0501 Procedure

Upon receipt of said appeal, the Zoning Official may forthwith examine such appeal or request application and endorse his recommendation thereon together with all documents, plans, papers or other material constituting the record to the Municipal Attorney for his review and opinion. The Municipal Attorney shall present his opinion to the Board of Adjustment as to whether or not the subject of the appeal falls within the jurisdiction of the Board of Adjustment. (rev. 06/19/2001)

11.0502 Stay of Proceedings

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

11.0503 Hearing on Appeal

Before rendering a decision upon an appeal, the Board of Adjustment shall hold a Public Hearing for which a reasonable time shall be set. Public notice of the hearing shall be given as well as due notice to the parties in interest. Upon the hearing any party may appear in person or by agent or by attorney. The Board of Adjustment may require the person appealing to send certified mail receipted notice to the property owners within a reasonable area not to exceed a distance of one thousand (1,000) feet from the property involved. The guide for the mailing requirement to owners may be the most current town or county assessment role. At the hearing, any party may appear in person or by agent or attorney. With respect to condominiums or cooperatives, notices required by this section may be sent to each, the secretary and the president of the condominium or cooperative association, unless such offices are not filled, in which event notice to the agent designated for the service of process will be sufficient compliance with the notice requirements of this section.

11.06 VARIANCES

A variance is a deviation from the literal provisions of the Zoning Ordinance which is granted by the Board of Adjustment when strict conformity to the Zoning Ordinance would cause an unnecessary hardship owing to circumstances unique to the property on which the variance is granted. In order to authorize any variance from the terms of this Ordinance, the Board of Adjustment must and shall find:

- A.** That the granting of the variance will not be contrary to the public interest;
- B.** That the literal enforcement of the Ordinance will result in unnecessary hardship by reason of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional physical condition unique to the specific piece of property in question; unnecessary hardship shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or property owner's action;
- C.** That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

- D. That the literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance;
- E. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;
- F. That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;

The burden of proving to the Board of Adjustment that the foregoing conditions have been met is upon the applicant.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance. No nonconforming use of neighboring lands, structures, or buildings in other zone districts shall be considered grounds for the authorization of a variance.

11.07 JUDICIAL REMEDY BY CIRCUIT COURT

Any party aggrieved by any final judgment or decision of the Board of Adjustment, or by a decision of the Municipal Attorney that the Board of Adjustments has no jurisdiction, may apply to the Circuit Court for judicial relief within the time period as provided by the Code of Alabama §11 52 81, as amended.

11.08 COMPLIANCE WITH THE CODE OF ALABAMA

The Board of Adjustment shall conform to the requirements of the applicable sections and paragraphs of the Code of Alabama, and in any conflict between this Ordinance and the Code, the Code of Alabama shall prevail.

**ARTICLE 12
ADMINISTRATION**

(rev. 06/02/2009 unless otherwise noted)

- 12.01 GENERAL PROCEDURE**
 - 12.02 ZONING OFFICIAL**
 - 12.03 ZONING COMPLIANCE AND/OR BUILDING PERMIT REQUIRED**
 - 12.04 CERTIFICATE OF OCCUPANCY**
 - 12.05 APPLICATION FOR BUILDING PERMIT**
 - 12.06 ENFORCEMENT**
 - 12.07 AMENDMENTS**
 - 12.08 PLANNING COMMISSION PUBLIC HEARING AND NOTICE**
 - 12.09 COUNCIL PUBLIC HEARING AND NOTICE**
 - 12.10 PROCEDURE FOR ZONING NEWLY ANNEXED LAND**
 - 12.11 REQUIREMENTS FOR OTHER PERMITS BEFORE CONSTRUCTION CAN COMMENCE**
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12.01 GENERAL PROCEDURE

12.0101 General Sequence of Steps

All persons desiring to undertake any excavation, new construction, structural alteration, or changes in the in the use of a building or lot, shall first make application to the Department of Community Development. Depending on the type of development or use requested, the application will be forwarded to the appropriate division, (e.g., planning or building), and other departments as warranted. The application and supporting information will be reviewed for compliance to all city requirements. If the application meets all requirements, then the appropriate permits or certificates may be issued. Upon completion of work authorized in any permit, the Building Official may issue a Certificate of Occupancy. Only then may a premise be occupied.

12.0102 Building Permit Types

Under the terms of this Ordinance, the following classes of building permit may be issued.

12.010201 Permitted Use

A building permit for a permitted use may be issued by the Building Official on his own authority as provided for in other sections of this Ordinance.

12.010202 Building Permit after Appeal/Request for a Variance

A building permit may be issued by the Building Official upon the order of the Board of Adjustment.

12.02 ZONING OFFICIAL

The Zoning Official of the Municipality of Orange Beach, Alabama shall enforce this Ordinance. He shall issue no Certificate of Zoning Compliance unless it is in compliance with all provisions of this Ordinance.

12.03 ZONING COMPLIANCE AND/OR BUILDING PERMIT REQUIRED

No building or structure shall be erected and no existing building shall be moved, altered, added to, or enlarged until a Certificate of Zoning Compliance and/or a permit has been issued. Except upon written order of the Board of Adjustment, no such Certificate of Zoning Compliance, building permit, or Certificate of Occupancy shall be issued for any building where such construction, addition, alteration or use thereof would be in violation of any provision of this Ordinance.

12.0301 Temporary Permits

The Municipal Council shall have the right and the power to grant special temporary permits for periods not to exceed six (6) months, for the location and use of any structure, mobile home, etc., on any lot in any zoning district, subject to such terms, conditions or special limitations as the Council may prescribe or impose. The Municipal Council may renew or extend any such special permit for up to twelve (12) months. The combined term for any such special permit and the renewal or extension thereof shall, in no event, exceed eighteen (18) months. It is the intent of this Section to provide for flexibility of land use in community reorganization during periods immediately following natural disasters such as floods, hurricanes, fires or other disasters, or such other emergency situations.

12.04 CERTIFICATE OF OCCUPANCY

No building hereafter erected, converted or structurally altered shall be used, occupied or changed in use until and unless the Building Official shall have issued a Certificate of Occupancy.

12.05 APPLICATION FOR BUILDING PERMIT

Each application for a building permit shall be filed in written form with the Building Official, so that he/she may ascertain whether the proposed excavation, construction, use of land, moving or alteration is in conformance with this Ordinance. Minimum requirements for an application for a building permit shall include:

- A.** A survey or plot plan showing the boundaries of the property involved, adjoining streets, the location and dimensions of the proposed building(s)/structure(s), the lot number, block number (if applicable) and subdivision name in which the property is located.
- B.** How far the proposed building/structure is from the front, rear, and side yards. Any other pertinent information required by the Building Official.

12.06 ENFORCEMENT

12.0601 Right of Entry

The Zoning Official and/or his authorized representative may enter any building, structure, or premises at all reasonable times to make an inspection or enforce any provisions of this Ordinance. When entering a building, structure, or premise that is occupied, the Zoning Official and/or his authorized representative shall first identify himself, present proper credentials and request entry. If the building, structure, or premise is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge of the building and demand entry. If entry is refused, the Zoning Official and/or his authorized representative shall have recourse to every remedy provided by law to secure entry. No person, owner or occupant of any building, structure, or premise shall fail, after proper credentials are displayed, to permit entry into any building or onto any property after the Zoning Official and/or his authorized agent for the purpose of inspections pursuant to this Ordinance. Any person violating this section shall be prosecuted within the limits of the law as established by the Municipality of Orange Beach.

12.0602 Violations (rev. 11/19/2002)

- a. When a violation of this Ordinance is found, the Zoning Official, or his authorized representative, or the Municipality, or the Municipality on his behalf is authorized and directed to institute the following outlined procedure to end such violation.
 - 1. The Zoning Official declares that a violation of the Zoning Ordinance has occurred.
 - 2. The Zoning Official takes photographs of the zoning violation, makes a written record of the observed zoning violations, and places these in a public record file in the Orange Beach Department of Public Works.
 - 3. The Zoning Official posts a notice in a conspicuous place on the building/property denoting that this building/property is in violation of the Zoning Ordinance.
 - 4. The Zoning Official issues an Ordinance Violation Notice to the owners of record of the building/property stating that the building/property is in violation of the Zoning Ordinance and listing the observed violation(s), and allowing them a thirty (30) day period from the date of the citation to correct the violation.
 - 5. If such violation has not been corrected within the thirty (30) day period, the Zoning Official or his designee may appear before a magistrate and file a complaint for violation of this Ordinance.
- b. For any and every violation of the provisions of this Ordinance, and for each and every day that such violation continues, said violation(s) shall be punishable as a misdemeanor by a fine not to exceed one hundred dollars (\$100.00) or by imprisonment for not more than ten (10) days, or by both such fine and imprisonment. Persons charged with such violation(s) may include:

1. The owner, agent, lessee, tenant, contractor, or any other person using the land, building or premises where such violation has been committed or shall exist.
 2. Any person who knowingly commits or takes part or assists in such violation.
 3. Any person who maintains any land, building or premises in which such violation shall exist.
- c. In addition to the criminal penalties and enforcement procedures above stated, the Building Official, or the Municipality, or the Municipality on his behalf, may institute any lawful civil action or proceeding to prevent, restrain or abate:
1. The unlawful construction, erection, reconstruction, alteration, rehabilitation, expansion, maintenance or use of any building or structure; or
 2. The occupancy of such building, structure, land or water; or
 3. The illegal act, conduct, business, or use, in or about any building, structure, or premises.

12.07 AMENDMENTS

12.0701 Municipal Council (rev. 06/02/2009)

Zoning is a legislative act, adopted by the City Council to protect the public health, safety and welfare. Zoning is the chief tool by which the City implements its Comprehensive Plan. The City Council may, from time to time, amend, supplement or repeal regulations and provisions of this Ordinance as provided by law in the following way:

- a. On recommendation of the Planning Commission.
- b. The Planning Commission shall adhere to the following principles in making its recommendation for zoning and rezoning requests:
 1. Zoning should be consistent with the Comprehensive Plan, Future Land Use Map (FLUM) or adopted neighborhood plan.
 2. Zoning should allow for a reasonable use of the property.
 3. Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character.
 4. Zoning should promote a transition between adjacent and nearby zoning districts, land uses, and development intensities.
 5. Zoning should promote the policy of locating retail and more intensive zoning near the intersections of arterial roadways or at the intersection of arterials and major collectors.
 6. The request should serve to protect and preserve places and areas of single-family residential neighborhoods.

7. Zoning should satisfy a public need and not constitute a grant of special privilege to an individual owner; the request should not result in spot zoning.
8. The granting of a zoning request should result in equal treatment of similarly-situated properties.
9. The granting of a zoning request should not establish an undesirable precedent for other properties in the neighborhood or within other areas of the city.
10. Changes have occurred to conditions in the vicinity of the property indicating there is a basis for changing the originally-established zoning and/or development restrictions for the property.

12.0702 Petition by Property Owners

Whenever the owner and/or agent of record of any property desires a change in zoning classification, a change of the conditions or regulations of any district or any other provision of this Ordinance, he shall make written application to the Planning Commission on a form provided by the Municipality together with evidence that a deposit in an amount sufficient to cover cost of notices and processing for required public hearings thereon has been made with the Municipality. Said application shall be accompanied by any necessary information or documentation supporting such request. (rev. 03/21/2000)

No identical or substantially identical application for the rezoning of a specific parcel or parcels of land which has been denied by the City Council may be made for a period of one (1) year. (rev. 08/21/2007)

12.0703 Planning Commission

In response to an application for rezoning or when considering any other amendment to the Zoning Ordinance, the Planning Commission must hold a public hearing thereon and submit a written report to the City Council.

12.08 PLANNING COMMISSION PUBLIC HEARING AND NOTICE

12.0801 Planning Commission

In response to an application for rezoning, or when considering any other amendment to the Zoning Ordinance, the Planning Commission must hold a public hearing thereon and submit a written report to the City Council.

12.0802 Mailed Notice

Notices of public hearing shall be sent to owners of property lying within five hundred (500) feet of the property on which the change in zoning is requested so that owners will receive these notices at least five (5) days before the date of the public hearing; owners of record shall be the names and addresses as recorded on the last approved tax rolls of Baldwin County. To accomplish this requirement, an application for rezoning must be filed with the Orange Beach Planning Department a minimum of thirty (30) days prior to the Public Hearing. If an apartment, townhome, or condominium complex is a

neighboring or adjoining property to a proposed rezoning, the Municipality of Orange Beach will contact the owner's association or other managerial group in charge of the complex, and it shall be the responsibility of this association or group to contact the owners of the individual units.

12.0803 Posted Notice and Advertisement (rev. 03/02/1999)

No Zoning Ordinance or Amendment thereto shall be passed without first complying with the publication requirements of §11 52 77 Code of Alabama 1975 as it exists now or as hereafter amended.

Additionally, anyone who desires a rezoning of property shall file a request for same with the Planning Department not less than thirty (30) days prior to a meeting at which the Planning Commission is requested to consider same.

12.09 COUNCIL PUBLIC HEARING AND NOTICE

Within thirty (30) days after receipt of a written report from the Planning Commission on any proposed amendment to the Zoning Ordinance, the City Council shall schedule a public hearing thereon and advertise the notice of public hearing along with the proposed amendment, as required by law. The City Council shall not hold its public hearing or take action on any proposed amendment until it has received a report on the proposed amendment from the Planning Commission. Regardless of the recommendation of the Planning Commission, the applicant has the right to a Public Hearing before the Municipal Council.

12.10 PROCEDURE FOR ZONING NEWLY ANNEXED LAND (rev. 03/21/2000)

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

Any change in the zoning district classification shall be consistent with the municipality's adopted Comprehensive Plan.

12.11 REQUIREMENTS FOR OTHER PERMITS BEFORE CONSTRUCTION CAN COMMENCE

Nothing in this Ordinance shall preclude or supersede the responsibility of the property owner/developer from obtaining all applicable permits from other local, state, or federal agencies for the desired construction. The Zoning Official will advise the property owner/developer of those permits which he knows are required, but this does not relieve the property owner/developer of any responsibility to obtain all relevant and applicable permits regardless of the advice of the Zoning Official.

**ARTICLE 13
LEGAL STATUS AND OTHER PROVISIONS**

- 13.01 INTERPRETATION**
 - 13.02 EFFECT UPON OUTSTANDING BUILDING PERMIT**
 - 13.03 TRANSITION FORMAT**
 - 13.04 SEVARABILITY AND VALIDITY**
 - 13.05 REPEALED RESOLUTIONS AND ORDINANCE**
 - 13.06 EFFECTIVE DATE**
-

13.01 INTERPRETATION

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements for the protection, promotion and improvement of the public health, safety, comfort, order, appearance, convenience, morals and general welfare of the community. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, where this Ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings, or requires larger open spaces than are imposed or required by other Ordinances, rules, regulations or easements, covenants or agreements, the provisions of this Ordinance shall control. If because of error or omission in the zoning maps, any property in the Municipality is not shown as being in a zoning district, the classification of such property shall be RS-1 unless changed by amendment to the zoning map or by subsequent Zoning Ordinances.

13.02 EFFECT UPON OUTSTANDING BUILDING PERMIT

Nothing herein contained shall require any change in the plans, size, construction or designated use of any building structure or part thereof for which a building permit had been granted by the Municipality before the time of passage of this Ordinance; provided, that where construction is not begun under such outstanding permit within a period of one hundred eighty (180) days the permit issued will expire unless such permit expires otherwise by its terms.

13.03 TRANSITION FORMAT

All applications and appeals pending before the Board of Adjustment, Planning Commission or Municipal Council at the time of the enactment of this Ordinance shall be processed in accord with the substantive zoning regulations in effect prior to the adoption of this Ordinance, but shall be subject to the procedural requirements of this Ordinance where appropriate in the discretion of the Board of Adjustment, the Planning Commission or the Municipal Council.

13.04 SEVARABILITY AND VALIDITY

Each phrase, sentence, paragraph, section or other provision of this Ordinance is severable from all other such phrases, sentences, paragraphs, section or provision of this Ordinance. Should any phrase, sentence, paragraph, section or other provision of

this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect any other portion or provision of this Ordinance.

13.05 REPEALED RESOLUTIONS AND ORDINANCES

This is a comprehensive Zoning Ordinance and all prior Zoning Ordinances are hereby superseded and repealed. However, variances or exceptions legally granted under prior Zoning Ordinances remain in force and effect.

13.0501 Conflict with Subdivision Regulations

If any item in the "Subdivision Regulations of the Municipality of Orange Beach, Alabama", are in conflict with this Zoning Ordinance of the Municipality of Orange Beach, Alabama, the requirements of this Zoning Ordinance supersede the "Subdivision Regulations".

13.06 EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the date of its adoption.

ADOPTED on the 22nd day of April, 1991.

ATTEST:

L. Scott Johnson
Municipal Clerk

**ARTICLE 14
LITTER AND WEED CONTROL**

(rev. 06/19/2001 unless otherwise noted)

- 14.01 DEFINITIONS**
 - 14.02 LITTER IN PUBLIC PLACES**
 - 14.03 PLACEMENT OF LITTER IN RECEPTACLES SO AS TO PREVENT SCATTERING**
 - 14.04 DUTY TO KEEP FREE FROM LITTER**
 - 14.05 LITTER THROWN BY PERSONS IN VEHICLES**
 - 14.06 VEHICLES LOADS CAUSING LITTER**
 - 14.07 LITTER IN BODIES OF WATER**
 - 14.08 THROWING OR DISTRIBUTING COMMERCIAL HANDBILLS IN PUBLIC PLACES**
 - 14.09 PLACING COMMERCIAL AND NON-COMMERICAL HANDBILLS ON VEHICLES**
 - 14.10 DROPPING LITTER FROM AIRCRAFT**
 - 14.11 OWNER TO MAINTAIN PREMISES FREE OF LITTER**
 - 14.12 LITTER ON VACANT LOTS**
 - 14.13 WEEDS AND UNDERGROWTH ON PRIVATE PREMISES**
 - 14.14 INSPECTION AND NOTICE OF VIOLATION**
 - 14.15 DECISIONS**
 - 14.16 APPEALS**
 - 14.17 STAY OF PROCEEDINGS**
 - 14.18 HEARING ON APPEAL**
 - 14.19 PENALTIES**
 - 14.20 CLEARING OF LITTER, WEEDS, OR UNDERGROWTH FROM PRIVATE BY CITY**
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14.01 DEFINITIONS

For the purposes of this Article, the following terms, phrases, words and their derivation shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

Aircraft. Any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word *aircraft* shall include helicopters and lighter than air dirigibles and balloons.

Authorized Private Receptacle. A litter storage and collection receptacle as required and authorized in the City of Orange Beach.

City. The City of Orange Beach, Alabama.

Commercial Handbill. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature which:

- a. Advertises for sale any merchandise, product, commodity, or thing; or

- b. Direct attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- c. Directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind PROVIDED that nothing contained in this clause shall be deemed to authorize the holding, given or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without required license; or
- d. While containing reading matter other than advertising matter, is predominately and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

Garbage. Putrefactive animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Litter. *Garbage, refuse, and rubbish* as defined herein and all other waste material.

Newspaper. Any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with Federal statute or regulation, any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

Non Commercial Handbill. Any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

Park. A park, reservation, playground, beach, recreation center or any other public area in the City, owned or used by the City and devoted to active or passive recreation.

Person. Any person, firm, partnership, association, corporation, company or organization of any kind,

Private Premises. Any privately owned real property whether inhabited or temporarily or continuously uninhabited or vacant.

Public Place. Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, buildings, ditches, and gutters.

Refuse. All putrefactive and non-putrefactive wastes, including without limitation garbage, rubbish, ashes, street cleaning, dead animals, solid and liquid wastes, discarded items of furniture, paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, glass, and crockery.

Rubbish. Non-putrefactive solid wastes consisting of both combustible and non-combustible wastes, including without limitation lumber, firewood, abandoned automobiles, and discarded appliances.

Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

14.02 LITTER IN PUBLIC PLACES

No person shall throw or deposit litter in or upon any public place except in public receptacles, in authorized private receptacles for collection, or in official City dumps.

14.03 PLACEMENT OF LITTER IN RECEPTACLES SO AS TO PREVENT SCATTERING

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

14.04 DUTY TO KEEP FREE FROM LITTER

No person shall sweep into or deposit or cause to be deposited in any public place or private premises not owned or controlled by him the accumulation of litter from any other public place or private premises.

14.05 LITTER THROWN BY PERSONS IN VEHICLES

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any public place, or on any private premises.

14.06 VEHICLE LOADS CAUSING LITTER

No person shall drive or move any vehicle, truck or trailer unless such vehicle, truck or trailer is so constructed or loaded so as to prevent any load, contents or litter from being blown or deposited upon any public place or private premises not belonging to the driver.

14.07 LITTER IN BODIES OF WATER

No person shall throw or deposit litter in any pond, lake, stream, bay or other body of water.

14.08 THROWING OR DISTRIBUTING COMMERCIAL HANDBILLS IN PUBLIC PLACES

No person shall throw or deposit any commercial or non-commercial handbill in or upon any public place. Provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute, without charge to the receiver thereof, any commercial or non-commercial handbill.

14.09 PLACING COMMERCIAL AND NON COMMERCIAL HANDBILLS ON VEHICLES

No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle. Provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a commercial or non-commercial handbill to any occupant of a vehicle.

14.10 DROPPING LITTER FROM AIRCRAFT

No person in any aircraft shall throw out, drop or deposit any litter, commercial handbill, or non-commercial handbill.

14.11 OWNER TO MAINTAIN PREMISES FREE OF LITTER

The owner or person in control of any private premises shall at all times maintain the premises free of litter subject, however, to the following:

- A.** All private premises not zoned residential that accumulate rubbish resulting from business activity shall be allowed to do so; provided, however, such rubbish shall be removed every six (6) months. Should the City receive a complaint in connection with the accumulation of such rubbish, the City may require the following: 1) erect a wall, or wood or lattice fence around said rubbish; or 2) plant trees or tall shrubs, so as to effectively screen said rubbish.
- B.** This section shall not prohibit the storage of rubbish for a period of not more than three (3) months so long as it is screened as provided in the foregoing Section 11 (a).

14.12 LITTER ON VACANT LOTS

No person shall throw or deposit litter on any private premises whether or not owned or controlled by such person.

14.13 WEEDS AND UNDERGROWTH ON PRIVATE PREMISES

It shall be unlawful for any owner or person in control of private premises to permit on such private premises any weeds, untrimmed grass, or undergrowth of any kind which: impairs the visibility of persons using the public streets and highways, or which constitutes a public danger; or which constitutes a fire hazard; or which constitutes an impediment on a public way; or which constitutes a hazard to the public health, safety, and general welfare. Nothing contained herein is intended to limit or disparage the right of private parties otherwise available under the law to pursue an action to abate a private nuisance existing or alleged to exist on or in connection with any private premises.

14.14 INSPECTION AND NOTICE OF VIOLATION

The Zoning Official and such other city employees as designated by the City will act on behalf of the City and are empowered to enter onto and inspect private premises to determine if there is a violation of this Article. The City shall notify the owner or person in control of private premises of said inspection before entering the premises, by letter, stating the date and time inspection is to take place. The City shall issue written notice of

violation of Sections 11, and 13 of this Article to the owner or person in control of the premises before taking further action under said sections. (rev. 06/19/2001)

14.15 DECISIONS

The concurring vote of four (4) of the five (5) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the administrative official or to decide in favor of the appellant in respect to any matter upon which the Board of Adjustment can legally act. (rev. 06/19/2001)

14.16 APPEALS

Appeals to the Board of Adjustment may be taken by any person aggrieved including without limitation the owner, person in control of the premises, his attorney, or authorized representative, or by any officer or department of the municipality affected by any decision of the administrative officer in the enforcement of this Article. Such appeal shall be made within thirty (30) days after rendition of the order, requirement, decision, or determination appealed from and must be made in writing to the Board of Adjustment. No personal appearance shall be required on Appeal.

14.17 STAY OF PROCEEDINGS

An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the Appeal is taken certifies to the Board of Adjustment after the Notice of Appeal has been filed that, by reason of facts stated by him in writing a stay would cause imminent peril to life or property. Such proceedings may then be stayed by the Board of Adjustment.

14.18 HEARING ON APPEAL

Before rendering a decision upon an appeal, the Board of Adjustment shall hold a public hearing giving public notice and notifying appellant of the date, time, and location of the hearing at the City Hall. At the hearing any party may appear in person or by agent or attorney. The City Official who made the inspection and/or issued the violation, and the appellant shall be accorded an opportunity to be heard and to present evidence. The Board of Adjustment shall report its decision in writing to the appellant and to the City.

14.19 PENALTIES

Upon complaint properly filed with the Municipal court of Orange Beach, any person who violates any of the provisions of this Article may be deemed guilty of a misdemeanor and may be fined in a sum not to exceed five hundred (\$500) dollars for each violation. Provided, however, no complaint shall issue for violation of Sections 11 and 13 of this Article until the time for appeal of such violation has passed or until the Appeal Committee determines that a violation has occurred.

14.20 CLEARING OF LITTER, WEEDS, OR UNDERGROWTH FROM PRIVATE PREMISES BY CITY

When violations of this Article have occurred, the City is authorized and empowered to take action, either separately or in addition to the penalties in Section 18 hereof, to protect the health, safety, and general welfare of its citizens as follows:

- A.** After notice of any violation under Sections 11 and/or 13 of this Article has been given and after appeals, if taken, have been exhausted, the City is authorized to notify the owner or person in control of private premises to properly dispose of litter, weeds, or undergrowth located on such premises. Such notice shall be by registered mail, addressed to either the owner or the person in control of the premises, at his last known address or hand delivered. For purposes of the owner's address, the most recent address shown on the records of the Baldwin County Tax Assessor shall be sufficient.

ARTICLE 15 SIGN REGULATIONS

(rev. 10/16/2018 unless otherwise noted)

- 15.01 PURPOSE**
 - 15.02 OBJECTIVES**
 - 15.03 DEFINITIONS**
 - 15.04 EXISTING SIGNS**
 - 15.05 MANDATORY SIGNS**
 - 15.06 PROHIBITED SIGNS**
 - 15.07 PERMISSIBLE SIGNS**
 - 15.08 GENERAL SIGN STANDARDS**
 - 15.09 SPECIAL SIGN STANDARDS**
 - 15.10 ADMINISTRATION**
 - 15.11 ENFORCEMENT**
 - 15.12 APPEALS**
-

15.01 PURPOSE

Recognizing that Orange Beach is a unique resort, the City Council finds that proper sign control is necessary to maintain the high aesthetic values which the residents, business owners, and visitors of the City expect.

Signs have an obvious impact on the character and quality of the City. As a prominent part of the scenery, they attract or repel the viewing public and affect the safety of vehicular traffic. Their suitability and appropriateness helps to set the tone of the community.

The purpose of this article is to control signs in a manner which will maintain the aesthetic appeal of Orange Beach while, at the same time, provide equitable standards for all businesses to identify and advertise the location of goods and services.

15.02 OBJECTIVES

The objectives of this article are to create a set of guidelines that will result in signs that are an asset to the aesthetic appeal of the community that:

1. Are restrained in character and no larger than necessary for adequate identification and advertising.
2. Are of such design consistent with the high graphic standards.
3. Create and maintain harmony between commercial and industrial development and the residential community.

15.03 DEFINITIONS

Except as specifically defined herein, each word used in this article has its customary dictionary definition. For the purpose of this article, certain words or terms used are herein defined as follows:

Abandoned Sign. A permitted sign which was erected on property in conjunction with a particular use, which use has been discontinued for a period of thirty (30) days or more, or a permitted temporary sign for which the permit has expired.

Administrator. That person designated by the Mayor to administer and enforce the provisions of this article.

Back to Back Sign. A sign constructed on a single set of supports with messages visible on any side, provided that double message boards are physically contiguous.

Banners, Pennants, Balloons. Any animated, rotating, fluttering, or nonstationary device made of flexible materials designed to attract attention.

Board of Appeals and Adjustments. The duly appointed board authorized by the appropriate authority to hear and act upon any appeal of a decision of the administrator or any request for variance from any provision of this article.

Campaign Sign. A temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election. (rev. 04/22/2002)

Canopy. A permanent roof like shelter extending from part or all of a building face and constructed of some durable material which may or may not project over a public right of way.

Canopy Sign. A sign which is suspended from, attached to, supported from or forms a part of a canopy.

Changeable Copy Sign. A sign on which message copy is changed manually in the field, through the utilization of attachable letters, numbers, symbols and other similar characters or changeable pictorial panels.

Commercial or Industrial Center. One (1) or more separate occupancies located within the same or adjacent building or buildings on the same commercial or industrial plat of record.

Dilapidated Sign. Any sign which is structurally unsound, has defective parts or is in need of painting or maintenance.

Directional Sign. (1) A sign, permanently erected or permitted in the public right of way or private property by the City of Orange Beach, Baldwin County, State of Alabama, or other governmental agency to denote the name of any thoroughfare, the route to any city, town, educational institution, public building, historic place, shrine or hospital, to direct and regulate traffic, to denote any railroad crossing, bridge, ferry or other transportation or transmission company for the direction or safety of the public; (2) A sign, notice or symbol for the information of the Federal Aviation Agency as to location, directions, landing and conditions, affecting safety in aviation; and (3) An on premises temporary sign which contains information regarding the time and place of regular meetings of civic or religious groups.

Directory Sign. A sign listing only the names, use, and/or location of more than one (1) business, activity or professional office conducted within a building, group of buildings or commercial center.

Double Faced Sign. A sign with two (2) display areas against each other or where the interior angle formed by the display area is sixty (60) degrees or less, where one (1) face is designed to be viewed from one (1) direction and the other side from another direction. (rev. 02/22/2012)

Electrical Sign. A sign or sign structure in which electric wiring, connections, and/or fixtures are used as part of the sign proper.

Electronic Changeable Copy Sign. A sign containing alphabetic, pictographic, or symbolic informational content that can be changed or altered on a fixed display surface composed of electronically illuminated or mechanically driven changeable segments. This type of signage includes the following two (2) types: Fixed Message Electronic Signs whose basic information content has been pre-programmed to include only certain types of information projections, such as time, temperature, predictable traffic conditions or other events subject to prior programming; and Computer Controlled Variable Message Electronic Signs whose information content can be changed or altered by means of computer-driven electronic impulses. (rev. 09/03/2013)

Existing Sign. Any sign that was erected, mounted, or displayed prior to the adoption of this article.

Façade. The entire building wall, including main street wall face and parapet, fascia, windows, doors, canopy, and roof on any complete elevation.

Fixed Projecting Sign. A sign, other than a flat sign, which extends outward for more than six (6) inches from the facade of any building and is rigidly affixed thereto.

Flashing Sign. Any lighted or electrical sign which emits light in sudden transitory bursts.

Flat Sign. A sign erected parallel to and extending not more than twelve (12) inches from the facade of any building to which it is attached and supported throughout its entire length by the facade of the building and not extending above the building.

Freestanding Sign. A sign supported by a sign structure secured in the ground and which is wholly independent of any building, fence, vehicle or other support.

Frontage. The length of the property line of any one (1) premises parcel serving as a public right of way line.

Frontage Wall Face. The building facade, excluding parapet, fascia, soffit, mansard and roof, which faces a frontage on the premises.

Height of Sign. The vertical distance measured from the average elevation of the nearest road center line to the top of the sign face or sign structure, whichever is greater.

Identification Sign. A sign indicating the nature, logo, trademark or other identification symbol, address, or any combination of the name, symbols, and address of the building, business, development, or establishment on the premises where it is located.

Illuminated Sign – External. Any sign which is directly lighted by an external source.

Illuminated Sign – Internal. Any sign which transmits light through its face or any part thereof.

Inflatable Sign. A sign that is either expanded to its full dimensions or supported by gasses contained within the sign, or sign parts, at a pressure greater than atmospheric pressure.

Ingress/Egress Sign. A sign which designates only the direction of ingress or egress of a parking area or driveway, such as *In, Out, One Way, Do Not Enter* or *No Exit*.

Marina. A boat harbor or basin providing dockage, supplies, and services for water craft.

Marina Slip. Wet Slip: a structure, covered or uncovered, the purpose of which is to store a single boat in or over the water; Dry Slip: a permanently affixed rack on dry land, usually part of a network of racks to and from which a boat is maneuvered and stored.

Moving Message Board. Any electrical sign having a continuous message flow across its face by italicization of lights or other electrical impulses forming various words or designs, such as time and temperature.

Nonconforming Sign. A sign lawfully erected and legally existing at the time of the effective date of an article, but which does not conform to the new provisions of said code.

Occupancy. Any use of activity upon the premises.

Off Premises Sign. Any sign located or proposed to be located at any place other than within the same platted parcel of land on which the specific residence or business or activity being promoted by such sign, is itself located or conducted. For purposes of this article, easements and other appurtenances shall be considered to be outside such platted parcel of land and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off premises sign. Signs identifying public service, religious or civic club organizations not to exceed four (4) square feet as approved by the Administrator are exceptions to this definition.

On Premises Sign. Any sign located or proposed to be located at any place, if otherwise permitted by this Article, within the plat of record for the business or other activity identified on such sign.

Painted Wall Sign. A sign painted directly on any exterior building wall or door surface, exclusive of window and door glass areas, on any outside wall or roof or on glass of any building.

Panel. The primary surface of a sign upon which the message of the sign is carried.

Parapet. A vertical false front or wall extension above the roof line.

Pennant. (See Banners, Pennants, and Balloons)

Permitted Sign. A sign for which a valid permit has been issued.

Political Sign. A sign erected by a political candidate, group or agent thereof, for the purpose of advertising a candidate or stating a position regarding an issue upon which the voters of the City shall vote.

Portable Sign. Any sign which is not permanently affixed to a building, structure or the ground, or which is attached to a mobile vehicle.

Premises. The plat of record which is affected either directly or indirectly by the contents of this Article.

Project Sign. Any sign erected and maintained on the premises temporarily while undergoing construction by an architect, contractor, developer, finance organization, subcontractor, or materials vendor upon which property such individual is furnishing labor, materials, or services.

Public Right of Way. The line where the property meets the public right of way at a public street, or public waterway, provided that this definition shall not include unimproved alleys, easements, or other similar dedicated uses.

Public Way. Any street, highway, road, path, or right of way, whether privately or publicly owned, which is designed or used for vehicular or pedestrian traffic either by public right or custom, or by invitation of two (2) or more common owners.

Real Estate Sign. A temporary sign erected by the owner, or his agent, advertising the real property upon which the sign is located for rent, for lease or for sale, and limited in content to the name of the owner or agent, an address and/or telephone number for contact. Real estate signs are distinguished in these regulations from other forms of advertising signs and are permitted in certain districts and locations from which other forms of advertising signs are excluded. (rev. 09/04/2001)

Roof. The exterior covering of the top of a building.

Roof Sign. A sign erected over or on, and wholly or partially dependent upon, the roof of any building for support, or attached to the roof in any way.

Rotating Sign. Any sign which revolves around one or more fixed areas.

Seasonal/Holiday Sign. A sign used for emphasizing the celebration of an historic American holiday, which is erected for a limited period of time.

Sidewalk or Sandwich Sign. A movable sign not secured or attached to the ground or any building or structure.

Sign. Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial

symbols or representations. Noncommercial flags displayed from flagpoles will not be considered to be signs. (rev. 10/16/2018)

Sign - Area of. The square foot area enclosed by the perimeter of the sign face. With respect to signs which are composed of individual symbols, letters, figures, illustrations, message, forms or panels, sign area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any "cutouts" or extensions, but shall not include any supporting structure or backing.

Sign Copy. Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only. (rev. 10/16/2018)

Sign Face. The part of the sign that is, or can be used to identify, advertise, communicate information or for visual representation which attracts the attention of the public for any purpose. Sign face includes any background material, panel, trim, color, and direct or self-illumination used that differentiates the sign from the building, structure, backdrop surface or object upon which or against which it is placed. The sign structure shall not include as a portion of the sign face, provided that no message, symbol, or any of the aforementioned sign face criteria are displayed on or designed as part of the sign structure.

Sign Structure. A supporting structure erected, used or intended for the purpose of identification or attracting attention, with or without a sign thereon, situated upon or attached to the premises, upon which any sign may be fastened, affixed, displayed, or applied, provided, however, this definition shall not include a building, fence, wall, gate, or earthen berm.

Snipe Sign. A sign which is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, or fences, or to other objects, and the advertising matter appearing thereon is not applicable to the present use of the premises upon which such sign is located.

Special Event Sign. A sign which carries a message regarding a special event or function which is of general interest to the community.

Swinging Sign. Installed on an arm, mast or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.

Temporary Sign. Any sign or information transmitting structure intended to be erected or displayed for a limited period.

Time and Temperature Sign. An electrical sign utilizing lights going on and off periodically to display the current time and temperature to the community.

Traffic Direction/Safety Sign. A sign which is on premises consisting of type and/or arrow and is designed, sized and erected solely for the purpose of vehicular or pedestrian traffic direction or safety. Said sign will have no advertising words or phrases.

Vehicle Sign. A permanent or temporary sign affixed, painted on or placed in or upon any parked vehicle, parked trailer or other parked device capable of being towed, which is displayed in public view under such circumstances as to location on the premises, time of day, duration, availability of other parking space on the premises, and the proximity of the vehicle to the area on the premises where it is loaded, unloaded or otherwise carries out its principal function, which circumstances indicate that the primary purpose of said display is to attract the attention of the public rather than to serve the business of the owner thereof in the manner which is customary for said vehicle.

Window Sign. A sign permanently affixed to the surface of a window or door with its message intended to be visible to and readable from the public way or from adjacent property. (rev. 10/16/2018)

Window Sign – Temporary. A window sign of a temporary nature used to direct attention to the sale of merchandise, or a change in the status of the business, including, but not limited to, signs for sales, specials, going out of business, and grand openings.

15.04 EXISTING SIGNS

15.0401 Illegal Signs

Any sign erected or existing as of the effective date of this Article which does not have a valid permit from the City, or any sign so reclassified pursuant to 15.0403, a. of this Section, is hereby deemed to be an illegal sign and such sign and the person or persons responsible for such sign shall be subject to the enforcement regulations of this article. All existing signs without a permit will have sixty (60) days from the date of passage of this article to obtain a permit.

15.0402 Legal Signs

- a. Any existing and permitted sign which complies with the provisions of this article and any subsequent amendment hereto, is hereby deemed to be a legal sign. Any proposed alteration to, or relocation of, such sign shall not be undertaken until the permit required pursuant to Section 15.0701 has been issued, unless the proposed alteration is specifically exempt from such permit requirement pursuant to Section 15.0703.
- b. Any legal sign which does not comply with the provisions of this Article solely due to the enactment of an amendment hereto subsequent to the effective date of this article shall, upon the effective date of such amendment, become a nonconforming sign and subject to the provisions of Section 15.0403.

15.0403 Nonconforming Signs

- a. Any sign erected or existing as of the effective date of this article, which has a valid permit from the City of Orange Beach, but which does not conform to the provisions of this article, or any sign pursuant to Section 15.0402, b., is hereby deemed a nonconforming sign. A nonconforming sign may be maintained only by painting or refinishing the surface of the sign face or sign structure so as to keep the appearance of the sign as it was when the prior permit was issued or the City permit tag affixed. Upon a determination by the administrator and notice to the permittee

that a nonconforming sign has become dilapidated or structurally unsound, such sign shall be moved within twenty (20) days unless an appeal of such determination has been previously filed with the Board of Adjustment. Any structural or other substantive maintenance to a nonconforming sign shall be deemed an abandonment of the nonconforming sign and shall render the prior permit void and shall result in the reclassification of such sign as an illegal sign pursuant to Section 15.0401.

- b. A nonconforming sign may become a legal sign if, after compliance with the provisions of Section 15.10 of this article, it is brought into conformity with the provisions of this article.
- c. All legally existing nonconforming signs shall be removed, altered, or otherwise made to conform to the provisions of this article within seven hundred thirty (730) days of its passage.

15.05 MANDATORY SIGNS (rev. 02/19/2002)

All businesses, multi-family residential buildings (including condominiums) and any other structure (excluding single family dwellings) located on the south side of State Highway 182 (Perdido Beach Boulevard) with frontage on the Gulf of Mexico, shall comply with the following requirements for identification signs:

1. For businesses, multi-family residential buildings, and any other structures (excluding single family residential) with dune walkovers or boardwalks in excess of one hundred (100) feet in length, an eighteen (18) inches by twenty-four (24) inches sign shall be installed at the south end of the boardwalk or walkover and shall face southward. Such sign shall comply with the specifications in paragraph 2 below.
2. For businesses, multi-family residential buildings, and any other structures (excluding single family residential) without dune walkovers or boardwalks, or with dune walkovers or boardwalks less than one hundred (100) feet in length, one (1) eighteen (18) inches by twenty-four (24) inches aluminum sign fabricated out of four-hundredths (.040) inches thick aluminum with factory finished baked on enamel material (or city approved material), one (1) inch radius corners, high performance vinyl lettering with black three (3) inch high letters and the background shall be white. Signs shall be properly mounted on one galvanized metal channel post and shall be placed north of the Construction Control Line (CCL) established by the Alabama Department of Environmental Management. The sign shall be no less or greater than four (4) feet above grade. (rev. 06/04/2002)
3. Signs shall be attached to posts with two (2) inch minimum galvanized screws or bolts as applicable.
4. Content of sign: Name of establishment and its street address.
5. The sign shall be maintained in good condition at all times.
6. The City of Orange Beach shall initially erect all described signs. After April 1, 2002, erection, maintenance and placement of any mandatory sign shall be the responsibility of the landowner.

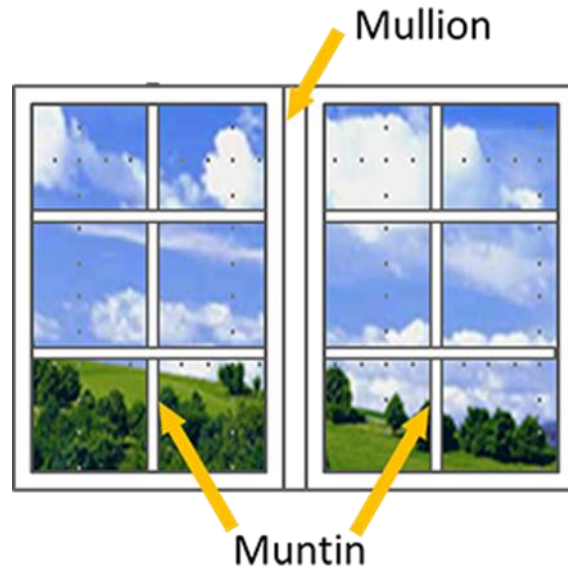
7. A permit for the sign shall be required to insure compliance with all specifications and requirements. However, no permit fee will be required by the City of Orange Beach.
8. Sign shall be placed within fourteen (14) days of notification. (rev. 02/19/2002)

15.06 PROHIBITED SIGNS

Except as may be hereinafter specifically permitted, it shall be unlawful after the effective date of this Article, or any amendment hereto, for any person to erect, place, or use within the City, when visible from any public way or beach, any of the following signs:

1. Snipe signs.
2. Sidewalk and sandwich signs.
3. Banners, pennants, balloons, flags, portable signs and inflatable signs. See temporary signs and standards for exceptions.
4. Off premises signs, except for off premise signs for non-profit organization special events. (rev. 12/17/2002)
5. A sign which contains any moving, flashing, or animated lights, visible moving or movable parts, or giving the appearance of animation.
6. Vehicle signs.
7. Any sign which emits a sound, odor, or smoke. Any sign which obstructs free ingress to or egress required exit way.
8. Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.
9. Any sign and/or sign structure which obstructs the view of, may be confused with or purports to be a governmental or traffic direction/safety sign.
10. Except as otherwise provided, no sign, whether temporary or permanent, except by a public agency, is permitted within any street or highway right of way.
11. Signs painted on or attached to trees, fence posts, pavement, rocks or other natural features, telephone or utility poles.
12. Abandoned or dilapidated signs.
13. Any sign which exhibits statements, words, or pictures of obscene or pornographic subjects.
14. Electronic changeable copy signs affixed on walls and roofs and in windows. (rev. 09/03/2013)
15. Signs affixed to roofs. (rev. 10/16/2018)

- 16. Window Signs:** (1) The area of a window sign shall not exceed twenty-five percent (25%) of each window or door area on which the signs are displayed. Window panels separated by muntins or mullions shall be considered as one continuous window area. (2) Window signs shall not be assessed against the sign area permitted for other sign types. (rev. 10/16/2018)



15.07 PERMISSIBLE SIGNS

15.0701 Permit Required

Unless specifically exempted pursuant to Section 15.0702 of this Article, no sign or sign structure shall be erected, displayed, moved or relocated, or altered, unless specifically exempted pursuant to Section 15.0703, until a permit fee has been paid and a sign permit has been issued by the Administrator pursuant to Section 15.10 of this Article.

15.0702 Signs Exempt from Permit Requirements

A permit is not required for the following types of signs, after proper notification is made to the sign administrator:

- a. An official sign or notice issued by any court, public agency, or office.
- b. A traffic directional, warning, or information sign authorized by any public agency.
- c. A private street or road name sign or a traffic directional sign, which does not exceed two (2) square feet per sign face.
- d. Any one (1) square foot sign for each three hundred (300) feet of frontage on a tract of land, except for campaign signs. (rev. 02/22/2012)
- e. Any two (2), one (1) square foot signs per residential lot.

- f. One (1), four (4) square foot residential real estate sign. Two (2) back to back faces of four (4) square feet are permitted. These signs are independent of any other sign and are not allowed in conjunction with any other real estate sign requiring a permit, nor is the sign area cumulative with any other signs that may or may not require a permit. (rev. 09/04/2001)
- g. One (1) commercial real estate sign which does not exceed six (6) square feet per sign face per three hundred (300) feet of property frontage. These signs are independent of any other sign and are not allowed in conjunction with any other real estate sign requiring a permit, nor is the area cumulative with any other sign that may or may not require a permit. (rev. 09/04/2001)
- h. An ingress/egress sign which does not exceed three (3) square feet per sign face.
- i. Signs that are an integral part of vending machines or such other machines or portable holding facility for goods and/or services located on an already licensed premises, whether illuminated or not. (rev.06/01/1999)
- j. Lots with single-family dwellings and duplexes may have one (1), four (4) square foot campaign sign per candidate per side of right-of-way frontage. The sign may be double-faced. (rev. 02/22/2012)
- k. Commercially zoned lots may have one (1), four (4) square foot campaign sign per candidate for each three hundred (300) feet of frontage on a public right-of-way. The sign may be double-faced. (rev. 02/22/2012)

15.0703 Sign Alterations Exempt from Permit Requirements

A permit is not required prior to engaging in sign alterations if such alterations involve only:

- a. The changing of copy on a permitted changeable copy sign.
- b. The painting or refinishing of the surface of a sign face or sign structure of a permitted sign so as to keep the appearance of such sign as it existed on the date such sign received a permit tag.
- c. Changes of copy, by a permitted owner, necessary to correctly identify the business, i.e. phone number, product lines, etc., as long as the quality and graphics of the original permitted sign remain the same.

15.08 GENERAL SIGN STANDARDS

15.0801 Setback from Right of Way

All signs placed adjacent to Perdido Beach Boulevard (State Highway 182) shall be required to be set back at least five (5) feet from the highway right of way.

15.0802 Landscaping

The premises around a freestanding sign shall be maintained by the owner of the sign in a clean, sanitary, and inoffensive condition, and shall be free and clear of obnoxious substances, rubbish, and weeds.

15.0803 Sign Illumination

- a. Electrical Requirements: Signs which are electrically illuminated shall require a separate electrical permit.
- b. If illuminated, sign shall be illuminated only by the following means:
 1. By a single color, steady, stationary light reflected off the face of the sign, shielded and directed solely at the sign.
 2. Light sources shall not be of such brightness so as to cause glare hazardous to pedestrians or auto drivers or so as to create a nuisance to adjacent public or private properties. (rev. 09/03/2013)

15.0804 Dimension and Quantity (Free Standing, On Premises Sign)

- a. **Area and quantity:** The area and quantity of any sign face shall conform with the following:
 1. Residential developments shall be permitted one (1) freestanding sign per entrance with not more than eighty (80) square feet of sign face per sign equally divided among not more than four (4) sign faces. No single sign face shall exceed forty (40) square feet. If an applicant in this category shall waive the right to have a freestanding sign, the applicant shall be permitted eighty (80) square feet of sign face, equally divided among not more than two (2) separate signs, mounted on the security wall at one (1) entrance to the development. No one sign may exceed forty (40) square feet in sign face.
 2. Commercial developments consisting of retail and public commercial uses, either exclusively or mixed with residential uses, shall be permitted one (1) freestanding sign per entrance, but no more than two (2) signs per development. Said signs shall not have more than two hundred (200) square feet of sign face equally divided among not more than four (4) sign faces. No sign face may be wider than fifteen (15) feet. No single sign face shall exceed one hundred (100) square feet. No sign face may be wider than fifteen (15) feet.
 3. A permitted and licensed home occupation shall be permitted one (1) freestanding sign.

Said sign shall be a single faced, non-illuminated sign positioned parallel to the highway right of way, consisting of not more than six (6) square feet of sign face. A residence is restricted to one (1) such sign, regardless that more than one (1) home occupation may be permitted and licensed.

- b. **Height:** The maximum height of any freestanding sign shall not exceed fifteen (15) feet above the average elevation of the nearest public highway. Signs existing on the date of the passage of this Article which otherwise meet the requirement of legal signs except for height limitations may remain up as nonconforming signs until five (5) years from the date of approval of this Article.
- c. **Width:** The maximum width of the entire sign structure shall not exceed twenty (20) feet. No sign face shall be wider than fifteen (15) feet.
- d. **Structure Size:** The size of the support structure for any freestanding sign shall not exceed the sign face by more than one hundred percent (100%). Example: a ten (10) square foot sign face may be supported by a ten (10) square foot sign structure.
- e. **Electronic Changeable Copy Sign:** (rev. 09/03/2013)
 - 1. **Area:** The area of an Electronic Changeable Copy Sign shall not exceed fifty percent (50%) of the sign face area of the detached sign of which it is a part.
 - 2. **Height:** The height of any portion of an Electronic Changeable Copy Sign shall not exceed eight (8) feet above the crown of the nearest roadway or ten (10) feet above the existing grade, whichever is greater. No portion of an Electronic Changeable Copy Sign shall project above the height of the permanent detached sign. An Electronic Changeable Copy Sign is secondary to the permanent non-changeable portion of the sign and shall be designated in this regard.
 - 3. **Duration:** Electronic Changeable Copy Signs shall change no more than one (1) time per fifteen (15) seconds. Between the hours of 10:00 p.m. and 7:00 a.m., Electronic Changeable Copy Signs shall remain static with no copy changes.
 - 4. **Dimmer Control:** Electronic Changeable Copy Signs shall have an automatic dimmer control to produce a distinct illumination change between one-half hour before sunset and one-half hour after sunrise and must also be able to respond to lighting level changes occurring due to atmospheric conditions.
 - 5. **Setback from Residential:** Electronic Changeable Copy Signs shall not be located within thirty (30) feet of properties zoned RS-1, RS-2 and RS-3 and properties with single-family residential and duplex uses. The setback distance shall be measured along the right-of-way.
 - 6. **Setback from Other Electronic Changeable Copy Signs:** An Electronic Changeable Copy Sign shall not be located within fifty (50) feet of another Electronic Changeable Copy Sign. The setback distance shall be measured along the right-of-way.
 - 7. **Maintenance:** Electronic Changeable Copy Signs shall be maintained in proper working order. Any non-illuminated portions of the sign shall be replaced and repaired within thirty (30) days or the use shall be discontinued.

15.09 SPECIAL SIGN STANDARDS

15.0901 On Premises Sign Standards

- a. Building and wall graphics signs shall not occupy more than twenty percent (20%) of the signable space on any one facade of a building with a maximum size of the sign limited to one hundred twenty-five (125) square feet.
- b. Obstruction: An on premises sign shall be erected so as to not obstruct or impair driver vision at business ingress/egress points and intersections.
- c. Bulletin boards are permitted.
- d. Signage that is an integral part of vending machines or other such machines or portable holding facility for goods and/or services, located on an already licensed premises are permitted. (rev.06/01/1999)

15.0902 Temporary Signs and Standards

a. Types

The following types of signs are classified as "temporary signs":

1. Special event signs.
2. *Grand Opening* and *Going Out of Business* signs of business and services.
3. Signs for work under construction.
4. Land subdivision or development signs.
5. Signs advertising the sale of lease of property upon which they are located.
6. Banners, pennants, balloons, flags, portable signs and inflatable signs.
7. Window signs not permanently affixed to a window or door that are intended to be displayed for a limited period of time. (rev. 10/16/2018)

b. Area, Height, Location:

1. **Area:** The total area of temporary signs shall not exceed sixty-four (64) square feet and thirty-two (32) square feet per sign face. Real estate signs shall comply with Section 15.0702, f. or g. as applicable or this Section. Real estate sign area is not cumulative; in no situation shall more real estate sign area than that allowed independently either in this Section or Section 15.0702 f. or g. be permissible on any lot. (rev. 09/04/2001)
2. **Height:** The maximum height of temporary signs shall not exceed eight (8) feet, while the lower edge shall not exceed four (4) feet in height from the average grade.
3. **Location:**
 - (a) No temporary sign shall be located so as to obstruct or impair drivers' vision at business ingress/egress points and at intersections.

- (b) Except for real estate signs which conform to the provisions of this article, no temporary sign shall be located nearer than one hundred (100) feet to any church, cemetery, public building, historic site or district, or the intersection of two or more public streets or highways.
 - (c) Except for real estate signs which conform to the provisions of this article, temporary signs are not to be located any closer than one hundred (100) feet from any other sign on the same premises.
4. The sign administrator will determine the appropriate area, height and location of banners, balloons, flags, portable signs and inflatable signs.

c. Time Limits:

1. Special event signs may be erected no sooner than fourteen (14) days preceding a special event and shall be removed within forty-eight (48) hours following the special event. The same event shall not be advertised more frequently than four (4) times per year.
2. *Grand Opening* and *Going Out of Business* signs may be erected for a period not to exceed thirty (30) days and no more than one (1) occurrence per year.
3. Project signs for work under construction may be erected upon the issuance of a final development permit on the construction site during the construction and shall be removed within seven (7) days following the issuance of the Certificate of Occupancy.
4. Temporary signs announcing the subdivision of land may be erected on the land being developed and shall be removed when one hundred percent (100%) of the development lots are conveyed, or for a term not to exceed one (1) year, whichever comes first. An extension may be permitted by the Administrator.
5. Signs advertising the sale or lease of property shall be removed at the completion of the transaction advertised.
6. Banners, pennants, balloons, flags, portable signs and inflatable signs may be permitted for a maximum of seven (7) days by the Sign Administrator. A time limit beyond seven (7) days requires the approval of the City Council. (rev. 12/17/2002)
7. Schools and non-profit organizations may be permitted not more than five (5) temporary signs or banners for duration of no longer than seven (7) days upon notification of the sign administrator. Signs or banners must be removed within twenty-four (24) hours of the end of the event. (rev. 12/17/2002)
8. Temporary window signs may be permitted for a maximum of fourteen (14) days by the Sign Administrator. (rev. 10/16/2018)

d. Permits:

Unless specifically exempted pursuant to Sections 15.0702 and 15.0703, a temporary sign is subject to the permit requirement of Section 15.0701.

15.0903 Canopy Signs

A commercial center shall be permitted one (1) canopy sign per occupancy, not to exceed six (6) feet in length and eighteen (18) inches in height, placed entirely under a canopy (marquee) directly in front of said location, identifying the occupancy.

15.0904 Multiple Use Shopping, Business, Office, and Professional Centers; Free Standing Directory

- a. Any multiple use shopping, business, office and professional center or mall shall be allowed to have not more than five (5) freestanding directory signs for individual businesses provided they meet the following requirements:
 1. Signs shall be for directory information only.
 2. Total sign square footage of the freestanding directory signs shall be twenty percent (20%) of that allowed for freestanding entrance signs under Section 15.0804 of this article with no one freestanding directory sign exceeding eight (8) square feet of sign face.
- b. Freestanding signs on outlying parcels that do not have direct traffic access to the adjacent roadway will be permitted a sign at one-half the size authorized in Section 15.0804.

15.0905 Gasoline Filling Stations

- a. Petroleum products, pumps and dispensers which are within view of a public way shall be permitted to display only information required by law and in addition, the brand name of the product being dispensed.
- b. Premises which dispense retail bulk petroleum products by pump shall be permitted one (1) additional sign on the premises announcing the price per gallon of not more than four (4) products with characters not exceeding twelve (12) inches in height. In lieu of the one (1) additional sign permitted above, the price per gallon may be displayed on each individual pump structure with characters not exceeding six (6) inches in height.

15.0906 Marina and Waterfront Businesses

Businesses whose premises front on a public way which is a body of water, and who provide dockage for that business, shall be allowed one additional sign which otherwise meets the criteria of Section 15.08. This additional sign shall be viewed from the water public way only.

15.0907 Flags

- a. Non-governmental flags are deemed to be signs and shall be subject to the provision of this article except that no such flag shall exceed forty (40) square feet per face.
- b. Governmental flags must be displayed in a dignified, non-commercial manner.

15.0908 Campaign Signs (rev. 04/22/2002)

The Sign Administrator will conditionally permit temporary campaign signs for political candidates or issues after an application for such signs has been submitted and reviewed. Political signs that are to be placed on residential lots are exempt from the permitting procedure outlined in Section 15.10. Conditions for posting campaign signs are as follows: (rev. 02/22/2012)

a. An application to the City by the candidate that they intend to post political campaign signs within the corporate limits of the city, or such other place the city regulates signage. Said applications shall contain the name, address and telephone number of the local responsible campaign official.

b. All signs shall conform to the following dimensions:

Commercially zoned lots may have one (1), four (4) square foot campaign sign per candidate for each three hundred (300) feet of frontage on a public right-of-way. The sign may be double-faced;

Lots with single-family dwellings and duplexes may have one (1), four square foot campaign sign per candidate per side of right-of-way frontage. The sign may be double-faced. (rev. 02/22/2012)

c. All signs shall be posted on private property with the owner's permission; signs installed on public rights-of-way and other public property will be removed by City personnel, with associated costs for removal assessed to the candidate.

d. No signs shall be placed on a vacant parcel unless the candidate has written permission from the owner of the vacant parcel and filed with the Sign Administrator permitting the candidate to place campaign signage on the vacant parcel. (rev. 02/22/2012)

e. No sign shall be posted prior to the candidate qualifying for the office sought.

f. All signs shall be removed within three (3) business days past the primary or general election if the candidate does not proceed to the next round of elections, or if the candidate is successful and unopposed.

g. Submission of a refundable deposit of one hundred dollars (\$100.00), which is refundable only if all signs are removed within the required time frame, defined in e. above.

15.10 ADMINISTRATION

15.1001 Application for Permit

a. Where to apply: Any application for a sign permit shall be submitted to the Sign Administrator on a form supplied by the City.

b. Information required: The following information shall be submitted with an application for a sign permit:

1. Name, address, telephone number, and signature of the owner or duly authorized lessee of the premises granting permission for the construction, operation, maintenance, or displaying of sign or sign structure.
2. Name, address, telephone number, City of Orange Beach business license number, and signature of sign contractor, if any.
3. Legal description and/or street address of premises or property upon which the sign is to be located.
4. The approximate value of the sign to be installed, including the installation cost.
5. Type of sign for which a permit is sought.
6. Three (3) copies of a sketch, blueprint, blue line print, or similar presentation drawn to a scale of one (1) inch equals one (1) foot and dimensioned, showing elevations of the sign as proposed on a building facade, awning or canopy; provided further, the relationship to other existing adjacent signs shall also be shown. In the case of a freestanding sign, said sketches shall include a site plan showing the sign location and any existing or proposed landscaping which is affected by such sign.
7. If requested by the Sign Administrator, copy of stress sheets and calculations indicating that the sign is properly designed for dead load and wind pressure in any direction, as required in the Southern Building Code.
8. Such other information as the Sign Administrator may require which is necessary to verify full compliance with all applicable provisions contained in the Municipal Code.

15.1002 Freestanding Signs; Location Identification

The location for a new freestanding sign shall be clearly identified by a white stake(s) visible above ground line at each location where a support pole will be imbedded in the ground.

15.1003 Fees

- a. **Regular Fee:** In order to defray some of the administrative costs associated with processing permit applications and inspections of signs, at the time of submissions of an application for a sign permit, a nonrefundable plan check fee of ten dollars (\$10.00) shall be paid. When application for a permit is approved and before a permit is issued, a permit fee of thirty-five dollars (35¢) per square foot, but not less than twenty dollars (\$20.00) shall be paid. Temporary signs shall pay a fee of five dollars (\$5.00).
- b. **Reinspection Fee:** When reinspection is required, a reinspection fee of ten dollars (\$10.00) shall be charged.
- c. **Penalty Fee:** A double fee will be charged for sign(s) posted without a prior permit.

15.1004 Contents of Permit

Upon compliance with the provisions of this Article, the Sign Administrator shall make a decision to issue, deny, or issue with conditions a permit for such sign or sign structure within seven days of receipt of a complete permit application. Permits shall be numbered and shall contain the following information:

- a. The type of sign as defined in this article.
- b. The street address of the property upon which said sign is proposed to be located and the proposed location of the sign on said property; in the absence of a street address, an acceptable location shall be used.
- c. The amount of the fee paid for such permit.
- d. The date of issuance.
- e. In the case of a temporary sign, the date of expiration of permit.

15.1005 Expiration of Permit

A sign permit shall be valid for a period of ninety (90) days from the date of its issuance as noted on the permit. Unless a thirty (30) day extension is granted for good cause shown by the Sign Administrator, failure to erect or complete the otherwise approved work related to the permitted sign within such ninety (90) day period shall result in the expiration of such permit.

15.1006 Sign Inspection

- a. Within ten (10) working days of completion of approved work related to a permitted sign, the permittee or sign contractor shall notify the Sign Administrator that such sign is ready for final inspection. The Sign Administrator shall conduct the final inspection for the purpose of verifying that the sign is in compliance with the requirements of the permit and all other provisions of this article.
- b. Failure to notify the Sign Administrator within ten (10) working days of work completion that the sign is ready for inspection may result in the requirement that an additional fee of not more than ten dollars (\$10.00) be paid.
- c. Failure to obtain a satisfactory inspection result shall render the permit invalid and the applicant shall be required to reapply for a permit or remove the sign or sign structure.

15.1007 Display of Permit

Display of permit tag: Following completion of a satisfactory final inspection, the Administrator shall issue and affix a permit tag to the sign.

15.11 ENFORCEMENT

15.1101 Violation Notice

The Administrator and duly authorized staff shall have the authority to issue a sign violation notice and shall be empowered to enter upon the premises of any person subject to this article for the purpose of enforcing the provisions herein.

15.1102 Certified Letter/Personal Delivery Letter

When a sign requiring a permit under the terms of this article is erected without a sign permit, the Administrator and his staff shall use the following procedure:

- a. The Administrator shall send a notice by certified mail or by personal delivery stating that the sign is in violation of this article, giving the date of such violation, and notifying owner of the sign to contact the Sign Administrator's office to get a permit for the sign within seven days.
- b. Failure to obtain permit: If, within seven (7) days, the owner of the sign fails to contact the Sign Administrator, bring the sign into conformance with this Article, or get a permit for the sign, the Administrator shall have the sign removed and impounded without any further notice.

15.1103 Fee for Removal

The Administrator shall charge a normal labor rate and equipment fees for the removal of any sign removed in accordance with Section 15.1102, b.

15.1104 Impoundment of Signs

- a. The Administrator and his staff shall have the authority to remove all signs, without notice to the owners thereof, placed within any street or highway right of way, signs attached to trees, fence posts, telephone and utility poles, other natural features, or signs otherwise prohibited in this article, and to impound them for a period of ten (10) days.
- b. The owner of a sign impounded may recover same upon the payment of fifty dollars (\$50.00) for each sign, prior to the expiration of the ten (10) day impoundment period. In the event the sign is not claimed within the ten (10) day impoundment period, the Administrator shall have the authority to dispose of such sign.

15.1105 Penalties

Any person who violates the provisions of this article upon conviction shall be guilty of a misdemeanor and shall forfeit and pay such penalties as the court may decide not to exceed two hundred fifty dollars (\$250.00) or thirty (30) days imprisonment, or both, at the discretion of the court for each violation. Each day's continued violation shall constitute a separate offense.

15.12 APPEALS

15.1201 Appeal

Any person of the municipality who is aggrieved and who alleges that the Sign Administrator acted erroneously in administering or enforcing this article may appeal the decision of the Sign Administrator to the Board of Appeals and Adjustments. Such appeal, including any appeal fee, shall be filed within twenty (20) days of the receipt of an official notice of decision.

15.1202 Appeal Fee

A fee of ten dollars (\$10.00) shall be paid for each appeal filed. If the decision of the appeal is in favor of the appellant, the fee shall be refunded.

15.1203 Variance

Recognizing the strict application requirements of this article may work an undue hardship on certain applicants, variances from the strict application of the provisions of this article may be granted by the Board of Appeals and Adjustments. Each application for variance under this section shall be in writing and shall state the reasons for the request for a variance in accordance with the rules and fee schedules established by the Board of Appeals and Adjustments. The application shall be signed by the applicant and the sign company, if any, responsible for the sign for which the variance is being sought. The Board of Appeals and Adjustments shall grant the variance, grant the variance with conditions, or deny the application within sixty (60) days after the appeal is filed. Any applicant aggrieved by a decision of the Board of Appeals and Adjustments may appeal as provided by the Alabama Code of Laws.

ARTICLE 16 TREE PROTECTION AND LANDSCAPING

(rev. 01/03/2017 unless otherwise noted)

16.01 PURPOSE

16.02 APPLICABILITY

16.03 DEFINITIONS

16.04 LANDSCAPING REQUIREMENTS

16.05 LANDSCAPE PLAN

16.06 MAINTENANCE

16.07 PROTECTED TREES AND TREES TO BE PRESERVED

16.08 TREE REMOVAL AND SITE CLEARING PERMIT

16.09 ENFORCEMENT

APPENDIX A – TREE REPLANT LIST

16.01 PURPOSE

The purpose of this Article is to establish protective regulations for heritage and protected trees and provide requirements for the planting of landscaped areas within the City. These regulations have also been adopted to allow for the removal of heritage and protected trees if they are hazardous, causing structural damage to the foundation, structural walls or roof of an existing building or when necessary to allow for reasonable use of a parcel or property. If heritage or protected trees are removed, it is also the intent of these regulations to require that the trees be replaced in order to preserve the tree canopy in the City of Orange Beach thereby protecting the environment and enhancing the natural beauty of the City. However, it is not the intent of this Article to preclude reasonable use of a parcel when the terms of these regulations are inconsistent with the City's zoning requirements or to inordinately burden the reasonable use of a property. Green areas create and preserve an ecological balance, control erosion, sedimentation and storm water runoff, provide shade and reduce heat and glare, abate noise pollution, and buffer incompatible land uses. It is critical that a balance be maintained between developed areas and natural/landscaped areas with appropriate existing and/or newly planted trees and other vegetation. The overall intent is to provide for the health and safety of our citizens and visitors through maintaining vital vegetative species that will reproduce for future generations.

16.02 APPLICABILITY

- A.** The provisions of this chapter shall apply to all new construction, expansion, development, redevelopment, clearing and grubbing, and maintenance of all property within the City of Orange Beach jurisdictional limits, unless expressly exempted by law.
- B. Exemptions:** The following are exempt from the landscaping and tree removal, replacement and permitting requirements of this Article:
 - 1. Public Works and Recreation Department construction activities.
 - 2. Public utility construction activities within the public rights-of-way.
 - 3. Commercial tree operation. Trees grown specifically for sale by commercial nurseries or the production of lumber and its byproducts. Buildings and

associated parking facilities for these types of operations are not exempt from the requirements of this article.

4. Protected trees irreversibly damaged or destroyed by natural disaster are exempt from the tree protection requirements of this Article.

16.03 DEFINITIONS

For the purposes of this Article, certain abbreviations, terms, phrases, words and their derivatives shall have the following meanings:

Circumference. The distance around the periphery of a tree at four and one-half (4 ½) feet above existing grade.

Diameter Breast Height. The diameter, in inches, of a tree trunk measured at four and one-half (4 ½) feet above existing grade. DBH is also referred as the diameter of a tree.

Heritage Tree. A healthy, protected tree and its root system with a diameter at breast height equal to or greater than thirty (30) inch or seven (7) feet and ten (10) inch circumference, whichever dimension is less,

Irrigation. A permanent underground watering system equipped with surface, subsurface or overhead emitters and which provides one hundred percent (100%) water coverage.

Protected Tree. A tree and its root system as defined in Section 16.07, A.

Protective Barricade. A physical structure not less than three (3) feet in height; limiting access to protected trees and heritage trees. A suitable protective barricade may be composed of wood or other material which ensures protection of the protected trees and heritage trees during construction.

Protective Dry Well and Drainage/Aeration System. A tree protection technique used to stabilize soil and provide air and water to root systems when the grade is raised.

Protective Retaining Wall. A tree protection technique used to stabilize soil around root systems when the grade is lowered.

Removed Tree. A protected tree or heritage tree that has been irreversibly damaged or destroyed.

Shade Tree. A hardwood tree that reaches a minimum height of twenty-five (25) feet at maturity, provides relief from direct sunlight for at least six (6) months each year and is included in the tree replant list, Appendix A.

Site Clearing. Any development or other activity which alters the land upon which it is located, except for normal sodding and placement of signs.

16.04 LANDSCAPING REQUIREMENTS

With the exception of single family and duplex uses, the following landscaping requirements apply to all types of land uses.

A. Landscape Area Requirements

The minimum percentage of the total developable site which shall be devoted to landscaping, unless otherwise specified in this Article, shall be twenty percent (20%). Effort shall be made to maximize upland habitat preservation and incorporate existing natural vegetation within the landscape areas.

B. Vehicle Use Areas and Perimeter Fencing (rev. 01/03/2017)

Vehicular use areas and perimeter fencing greater than three (3) feet in height shall meet the following requirements:

1. **Perimeter Requirements:** A ten (10) foot wide strip of privately owned land, located along the front, rear and/or side property line(s) adjacent to a street right of way shall be landscaped. In no case shall this strip be less than ten (10) feet wide. In the case of perimeter fencing, the landscape strip shall be located between the fence and the street right-of-way. This perimeter landscape requirement shall be credited toward the percentage required for the total developable site in Section 16.04, A. above. Material requirements in perimeter area are as follows:
 - a. One (1) tree for each thirty five (35) feet of linear foot frontage along the right of way shall be preserved or planted. Trees planted to meet this requirement shall measure a minimum of three (3) inches in diameter at four (4) feet above grade. The minimum height shall not be less than eight (8) feet of clear trunk. The remaining area within the perimeter strip shall be landscaped with landscape materials as follows:
 - (1) Hedge material at least three (3) feet in height and planted a minimum of three (3) feet on center. The hedge material shall form a continuous, opaque vegetative screen within one (1) year of planting. Other, non-vegetative screening may be used in conjunction with the hedge material but in no instance shall vegetation be minimized.
 - (2) Ground cover material which may include grass, pine straw or other organic material. No artificial turf or non-organic substances shall be used to satisfy this requirement.
 - b. Trees and other landscaping required in the perimeter strip shall be maintained to assure unobstructed visibility between three (3) feet and nine (9) feet above the average grade of the adjacent street and the driveway intersections through the perimeter strip.
2. **Interior Planting Areas:** Interior planting areas within parking lots shall be determined by subtracting the area set aside in the ten (10) foot perimeter strip from the total minimum area required to be landscaped in Section 16.04, A. above. This remaining percentage shall be allocated throughout the parking lot in planting areas located no greater than ten (10) parking spaces apart and in areas which are within ten (10) feet of the parking lot (other than in the perimeter strip required in B.1. above). Interior planting areas shall be located to most effectively accommodate storm water runoff and provide shade in large expanses of paving and contribute to orderly circulation of vehicular and pedestrian traffic. The minimum size of an interior planting area shall be one hundred fifty (150) square feet and a minimum width equal

to eight (8) feet. Interior planting areas shall be located on the site to incorporate the preservation of on-site protected trees, where possible.

3. **Vehicle Overhang:** Vehicles shall not overhang more than two (2) feet into any interior planting area of perimeter strip.
4. **Hardwood Tree Replacement:** The minimum number of trees shall be one (1) hardwood (shade) tree from Appendix A, Type B, for every one thousand three hundred (1,300) square feet of impervious and pervious vehicular use area. (rev. 04/19/2016)

C. Buffer Areas between Incompatible Zoning Districts and Uses

Regulations applicable to buffer yards are specified in Table 4.05 of this Ordinance.

D. Irrigation

A fully automatic, permanent irrigation system shall be installed, providing one hundred percent (100%) coverage of all required landscape areas.

16.05 LANDSCAPE PLAN

Before commencing any clearing or construction and simultaneously with a site plan review application, the applicant shall submit a landscape plan pursuant to this Article.

The landscape plan shall be required as a condition of obtaining any building permit as specified in Section 16.04. The plan shall be submitted with the application for site plan review. No permit shall be issued by the Building Division unless the landscape plan has been approved by the Planning Department. No Certificate of Occupancy shall be issued unless all requirements of the Planning Commission and site plan approval have been met.

A. Contents of Landscape Plan

The landscape plan shall include the following information:

1. A tree survey showing the location, species and size of all on site protected trees and off site protected trees within twenty-five (25) feet of proposed construction and earthwork.
2. The location by species and size all trees, shrubs and other landscape material to be placed on the site. The existing trees to be removed and retained must be indicated on the landscape plan.
3. Location of proposed structures, driveways, parking areas, utilities and other improvements to be constructed or installed.
4. Location of irrigation system to be provided.
5. Tree barricade and root pruning plan, containing a tree barricade detail, to prevent damage to existing trees and other vegetation during construction.

6. Information, written and graphic, submitted to the Planning Commission as required in Section 16.08 of this Article.

B. Installation Period

All landscape materials and trees depicted on the approved landscape plan shall be installed prior to the issuance of a Certificate of Occupancy. The Planning Commission may extend this period in the event of a storm or other act of God intervening.

16.06 MAINTENANCE

The legal owner of record as it appears on the current tax assessment roll shall be responsible for the maintenance of all landscape areas which shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free from refuse and debris. Maintenance shall include the replacement of all dead plant material. Dead plant material shall be replaced within a time appropriate to the growing season of the species in question, not to exceed six months.

16.07 PROTECTED TREES AND TREES TO BE PRESERVED

Where a proposed site plan cannot be designed to accommodate existing protected trees on the site, a tree removal or site clearing permit shall be obtained from the Community Development Department as specified in Section 16.08. Every reasonable effort shall be made to retain existing protected trees on a project site. A tree survey shall be submitted as part of the permit application showing the location, species and size of all on site protected trees and off site protected trees within twenty-five (25) feet of proposed construction and earthwork. The tree removal or site clearing permit shall be issued in conjunction with the approval of a site development plan.

A. Protected Trees

Redbuds and dogwoods with a diameter at breast height (DBH) equal to or greater than four (4) inches, long leaf pine trees equal to or greater than eighteen (18) inches DBH and all other trees with a DBH equal to or greater than six (6) inches are protected trees with the exception of the following:

- | | |
|---|-------------------------|
| Chinese Tallow (Popcorn Tree) | Sapium Sebiferum |
| Chinaberry | Melia Azedarach |
| Tree of Heaven (Chinese Sumac) | Ailanthus Altissima |
| Silk Tree (Mimosa) | Albizia Julibrissin |
| Paper Mulberry | Broussonetia Papyrifera |
| All pine trees other than the Long Leaf Pine | |
| Other recognized nuisance and/or invasive species | |

B. Heritage Trees

A healthy, protected tree with a diameter at breast height equal to or greater than thirty (30) inch or seven (7) feet and ten (10) inch circumference, whichever dimension is less, shall be classified as a heritage tree. A heritage tree may be removed only if it is within

the footprint of a proposed building structure and the developer has demonstrated that all reasonable efforts have been made to attempt to retain the tree on the site.

C. Single Family and Duplex Development, Redevelopment and Expansion

Single family and duplex lots, excluding subdivisions with associated capital improvements and planned unit developments, shall be exempt from the tree protection regulations within the footprint of the residential structures, including garage, carport, driveway and swimming pool. When a heritage tree is present on the lot, this exemption is limited to the footprint of the principal building, not accessory structures, unless protection of the heritage tree denies or precludes reasonable use of the property. The Community Development Department may administratively authorize a waiver or reduction of the front, rear or side yard setback, up to but not exceeding five (5) feet, in cases where the reduction of the setback is necessary in order to preserve a heritage tree. Tree replacement must be provided for all protected trees removed from the lot as required in Section 16.07, D. of this Article.

D. Tree Credits and Debits

Tree credit. Any preserved, protected or heritage tree located on the subject private property shall be eligible for credit against the number of trees required to be planted on the site. The number of tree credits is equal to the number of diameter inches (DBH) of protected and heritage trees to be retained divided by six (6).

Tree debit. Any protected or heritage tree that is permitted for removal is classified as a tree debit in the calculation of the number of required replacement trees. The number of tree debits is equal to the number of diameter inches (DBH) of protected and heritage trees to be removed divided by six (6).

Tree replacement. The required number of inches of replacement trees to be planted on a site is equal to the subtraction of the number of tree credits from the number of tree debits. If the value of the tree credit exceeds the tree debit value, the credit inches of retained trees within ten (10) feet of the vehicular use area may be applied to the vehicular use landscape tree planting requirement.

Replacement trees are required in addition to the landscape trees required in Article 4 and Section 16.04 of this Article unless tree credits are available due to on-site tree preservation.

E. Tree Protective Radius and Barricades

Development on parcels shall comply with the following tree protection requirements:

1. Protective barricades shall be placed around all protected trees and heritage trees during site clearing to create a protective radius and shall remain in place until land alteration, site clearing and construction activities are complete. Barricades for the protective radius shall be erected a minimum distance of ten (10) feet from the edge of trunk of protected trees and twenty (20) feet from the edge of trunk of heritage trees.

2. A minimum distance of ten (10) feet from all protected trees and twenty (20) feet from all heritage trees shall be maintained when installing underground utilities. If this results in unreasonable hardship, a soil auger shall be used to tunnel under the root systems.
3. Installation of artificial barriers such as protective barricades, fences, posts or walls shall not destroy or irreversibly harm the root system of protected trees and heritage trees. Footers for walls shall end at the point where larger roots are encountered, and the roots shall be bridged. Post holes and trenches located close to protected trees or heritage trees shall be adjusted to avoid damage to major roots.
4. All roots to be removed during site clearing and/or construction shall be severed clean at the perimeter of the designated protective radius.
5. A protective dry well and drainage/aeration system shall be provided where protected trees or heritage trees will be adversely affected by raising the grade.
6. A protective retaining wall shall be constructed at or beyond the perimeter of the protective radius around a protected tree or heritage tree where the protected tree or heritage tree will be adversely affected by lowering the grade.
7. Paving base placement within the outside five (5) feet of the required protective radius may be approved by the Planning Commission, provided an effective pervious radius of ten (10) feet for protected trees and twenty (20) feet for heritage trees is created through the use of grass pavers, pavement aeration devices or similar products. These pervious material products must be placed on grade to minimize the negative impact of fill on the root system.
8. Structural foundations may be located at a radius of five (5) feet from the trunk of a protected tree, provided an effective pervious area radius is extended proportionally in three other directions to allow a minimum of four hundred (400) square feet of pervious area.

F. Parking Reduction

A reduction of required parking spaces may be allowed by the Planning Commission when a twelve (12) inch protected tree (DBH) or greater is in conflict with a required parking space and a reduction in required parking would result in the preservation of the protected tree. The following reduction schedule shall apply:

REDUCTION SCHEDULE	
Number of Required Parking Spaces	Reduction of Required Parking Spaces Allowable
1 to 4	0
5 to 9	1
10 to 19	2
20 or above	10% of total number of spaces (total reduction regardless of number of trees preserved)

G. Replacement of Protected and Heritage Trees

When proposed improvements necessitate removal of protected trees, the owner or his agent shall replace the removed protected tree with a protected tree species or a species identified on the "Tree Replant List" in Appendix A. The replacement tree shall measure a minimum of three (3) inches in diameter, four (4) feet above grade and shall measure a minimum of eight (8) feet of clear trunk in order to comply with Section 16.07, D. above. Trees identified as dead shall not be required to be replaced.

H. New Planting of Protected Trees

On sites proposed for development where no existing protected trees are identified, the owner or his agent shall be required to plant one new tree species identified in the tree replant list (Appendix A), a minimum of three (3) inches in diameter measured four (4) feet above grade and shall measure a minimum of eight (8) feet of clear trunk for each three thousand six hundred (3,600) square feet of impervious surface area.

I. Road Right of Way Tree Protection Zone

No person or agency shall cut, remove, trim, or in any way damage any protected tree in any street right of way or create any condition injurious to any such tree without first obtaining a permit to do so from the Community Development Department.

16.08 TREE REMOVAL AND SITE CLEARING PERMIT

Unless exempt from the provisions of this Article, no person shall cut, remove, trim, or in any way damage any protected tree on private property or the road right of way without first obtaining a permit from the Community Development Department as provided below. In addition to this graphic information, a written statement shall be included noting the reasons why tree removal is requested. A fee shall be charged for services rendered by Community Development in the required review and on-site inspection for tree removal permits that are not in conjunction with Site Plan Review.

A. Permit Application Information

Prior to commencing any activity whether or not for impending development that will require removal of trees, including removal of vegetation for site preparation in any residential, commercial or industrial district, the owner, developer, or his agent shall submit an accurately scaled drawing prepared by a registered land surveyor or landscape architect or engineer or architect, or certified arborist or certified forester or other qualified person which includes the following information: (rev. 5/4/99)

1. Location of all protected trees noting species, size and general condition.
2. Location of proposed structures, driveways, parking areas, required perimeter and interior landscaped areas, and other improvements to be constructed or installed.
3. Identification of trees to be preserved and trees to be removed, including dead trees.

4. Proposed grade changes and other significant cutting and filling which might adversely affect or endanger trees proposed to be preserved with specifications for maintaining protection.

B. Onsite Inspection

Prior to the issuance of a tree removal permit, the Community Development Director or his designee shall conduct an on-site inspection.

C. Conditions of Approval

The Community Development Director or his designee may approve the permit if one or more of the following conditions are present:

1. Safety hazard: Necessity to remove trees which pose a safety hazard to pedestrians or vehicular traffic or threaten to cause disruption of public services; or which pose a safety hazard to persons or buildings.
2. Diseased or weakened trees: Necessity to remove diseased trees or trees weakened by age, storm, fire or other injury.
3. Good forestry practices: Necessity to observe good forestry practices.
4. Construction of improvements: Necessity to remove trees in order to construct proposed improvements as a result of:
 - a. Need for access to a proposed structure or access to a necessary part of a building site, and a redesign of the development plan is not feasible.
 - b. Essential grade changes.
 - c. Stormwater management facility and utility installations.
 - d. Location of driveways, buildings or other permanent improvements.
5. Compliance with other ordinances or codes: Necessity for compliance with other city codes such as building, zoning, subdivision regulations, health provisions, and other environmental ordinances.

D. Review

The Community Development Department has fifteen (15) working days after receipt of a completed application filed pursuant to this Article in which to approve or deny the requested permit. In the event an application is denied, the department shall specify to the applicant in writing the reason for said action. If no final action with respect to a completed application is taken within the required fifteen (15) working days, the application shall be deemed to have been approved.

16.09 ENFORCEMENT

A. Stop Work Order

Whenever the Community Development Department determines that a violation of this Article has occurred, the following actions shall be initiated:

1. **Written notice:** Immediately issue written notice by personal delivery or certified mail to the person violating this Article of the nature and location of the violation, specifying what remedial steps are necessary to bring the project into compliance. Such person shall immediately, conditions permitting, commence the recommended remedial action and shall have ten working days after receipt of said notice, or such longer time as may be allowed by the Community Development Department, to complete the remedial action set forth in said notice.
2. **Remedial work and stop work orders:** If a subsequent violation occurs during the ten working days referred to in Subsection A., 1. above, or if remedial work specified in the notice of violation is not completed within the time allowed, or if clearing and development of land is occurring without a permit, then the building official shall issue a stop work order immediately. Said stop work order shall contain the grounds for its issuance, and shall set forth the nature of the violation. The stop work order shall be directed not only to the person owning the land upon which the clearing and development is occurring, but also a separate stop work order shall be directed to the person or firm actually performing the physical labors of the development activity or the person responsible for the development activity, directing him forthwith to cease and desist all or any portion of the work upon all or any geographical portion of the project, except such remedial work as is deemed necessary to bring the project into compliance. If such person fails to complete the recommended remedial action within the time allowed, or fails to take the recommended action after the issuance of such stop work order, then the building official may issue a stop work order on all or any portion of the entire project.
3. **Notice of compliance:** Upon completion of remedial steps required by notice the Community Development Department shall issue a notice of compliance and cancellation of said notice or stop work order.

B. Penalties

1. **Work started without a permit:** Any person who performs tree removal or site clearing without City approval shall be required to pay two (2) times the cost of the permit for the work performed without the permit. In addition, the developer shall be required to plant replacement trees on the site, equal to the number of diameter inches of protected trees removed without a permit, regardless of the number of trees being preserved.
2. **Criminal penalties:** In addition to the penalties cited in Section 16.09, B., 1. of this Article, any person who violates the provisions of this article upon conviction may be deemed guilty of a misdemeanor and shall forfeit and pay such penalties as the court may decide not to exceed five hundred dollars (\$500.00) or thirty (30) days imprisonment, or both, at the discretion of the court for each violation.

**APPENDIX A
Tree Replant List**

Species Type A (Small)	Species Type B (Medium and Large)
Dogwood (Cornus Florida)	American Holly (Ilex Opaca)
Redbud (Cercis Canadensis)	Southern Magnolia (Magnolia Grandiflora)*
Dahoon Holly (Ilex Cassine)*	Eastern Red Cedar (Juniperus Virginiana)*
Fringe Tree (Chionanthus Virginicus)	Southern Red Cedar (Juniperus Silicicola)*
Ashe's Magnolia (Magnolia Ashei)*	Cherry Laurel (Prunus Caroliniana)*
Red Bay (Persea Palustris)*	Large leafed Magnolia (Magnolia
Smooth Red Bay (Persea Borbonia)*	Macrophylla)*
Sassafras (Sassafras Variifolium)	Hornbeam (Carpinus Caroliniana)*
Yaupon (Ilex Vomitoria)	River Birch (Betula Nigra)*
Wild Olive (Osmanthus Americana)	Florida Maple (Acer Banbatum Floridanum)*
Scrubby Post Oak (Quercus Margaretta)	Sweetbay (Magnolia Virginiana)*
Wild Crabapple (Malus Angustifolia)	Sand Live Oak (Quercus Virginiana
Hop Hornbeam (Ostrya Virginiana)	Geminata)*
Wax Myrtle (Myrica Cerifera)	Live Oak (Quercus Virginiana)*
Crape Myrtle (Lagerstroemia Indica)	Laurel Oak (Quercus Laurifolia)*
	Sweet Gum (Liquidambar Sytraciflua)*
	Pecan (Carga Illinoensis)*
	Water Oak (Quercus Nigra)*
	Red Maple (Acer Rubrum)*
	Tulip Tree (Lirodendron Tulipifera)
	Willow Oak (Quercus Phellos)
	Sour Gum (Nyssa Sylvatica)
	Southern Red Oak (Quercus Falcata)*
	Shumard's Red Oak (Quercus Shumardii)*
	Hackberry (Celtis Laevigata)
	White Oak (Quercus Alba)*
	Bald Cypress (Taxodium Distichum)*
	Cabbage Palm (Sabal Palmetto) or other
	climatized palm**

* **Shade Trees**

** **Must be a minimum of 12' clear trunk, and a minimum of 3 must be clustered, (spaced no greater than 10' from each other) to count as 1 tree. (rev. 02/21/2006)**