

## Chapter 38 - ZONING

## ARTICLE I. - IN GENERAL

## Sec. 38-1. - Purpose and intent.

The town, in order to promote the health, safety, convenience, order, prosperity, and general welfare of the residents; to prevent the overcrowding of land; and to avoid undue concentrations of population, ordains and enacts into law a zoning and land protection ordinance in accordance with state law. In their interpretation and application, the provisions of this chapter shall be considered as minimum requirements, liberally construed in favor of the town council and deemed neither to limit or repeal any other powers granted under state law.

(Ord. No. 119, art. I, 4-16-1991)

## Sec. 38-2. - Authority.

This chapter is adopted in accordance with Code of Ala. 1975, §§ 11-52-1 et seq. and 11-52-70 et seq. (article 1 and 4 of title 11, subtitle 2, chapter 52).

(Ord. No. 119, art. II, § 2.1, 4-16-1991)

## Sec. 38-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

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

*Alteration or altered* means any addition to the height, width or depth of a building or structure, any change in the location of any of the exterior walls of a building or structure, or any increase in the interior accommodations of a building or structure. In addition, a building or structure shall be classified as altered when it is repaired, renovated, remodeled, or rebuilt at a cost in excess of 80 percent of its value prior to the commencement of such repairs, renovation, or rebuilding.

*Buildable area* means the portion of a lot remaining after required yards have been provided.

*Building* means any structure having a roof supported by columns or walls attached to the ground and intended for shelter, housing, or enclosure for persons, animals, or chattels. The word building includes structure.

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

*Building area* means the portion of the lot occupied by the main building, including porches, carports, accessory building, and other structures.

*Building height* means the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip and gambrel roofs.

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

*Density* means a unit of measurement, the number of dwelling units per acre of land.

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

*Dwelling or dwelling unit* means any building, portion thereof, or other enclosed space or area used as or intended for use as the home of one family, with separate cooking and housekeeping facilities, either permanently or temporarily. The word dwelling shall not include boarding or rooming houses, tenets, tourist camps, hotels, trailers, trailer camps, or other structures designed or used primarily for transient residents.

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

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

*Family* means one or more persons related by blood, adoption or marriage occupying a single dwelling unit and using common cooking facilities.

*Floor area* means the gross floor area of all floors of a building plus any additions to an existing building. The total parking area includes access drives to parking spaces within the actual parking area; however, storage lanes for drive-up service may be in addition to access drives to parking spaces.

*Frontage lot* means the distance for which the front boundary line of the lot and the street line are coincident.

*Home occupation* means an occupation conducted in a dwelling unit in compliance with this chapter.

*Lot* means a piece, parcel, or plot of land occupied or intended to be occupied by one main building, accessory buildings, uses customarily incidental to such main buildings and such open spaces as are provided in this chapter, or as are intended to be used with such piece, parcel, or plot of land and having its principal frontage upon an existing or proposed right-of-way conforming to the requirements of this chapter. The term "lot" includes "plot" or "parcel."

*Lot line* includes the following:

- (1) *Front lot line* means the lot line contiguous to the street right-of-way line of the principal street on which

the lot abuts.

- (2) *Rear lot line* means the lot line opposite to and most distant from the front lot line.
- (3) *Side lot line* means any lot line other than a front or rear lot line. A side lot line of a corner lot separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot is called an interior lot line.

*Lot of record* means a lot which is a part of a recorded plat or a plot described by metes and bounds, the map or description of which has been recorded according to state law prior to the adoption of this chapter.

*Lot width* means 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.

*Mobile home* means any vehicle or similar portable structure having been constructed with wheels (whether or not such wheels have been removed) and capable of being driven, propelled or towed on a public street and so constructed as to permit occupancy for dwelling or sleeping purposes.

*Mobile home park* means a residential development on a parcel of land in single ownership providing rental spaces for two or more mobile homes for single dwelling purposes on a long-term basis, with recreation and service facilities for the tenants, whether or not a charge is made for such accommodation.

*Mobile home space* means a plot of ground within a mobile home park designed for the accommodation of one mobile home or travel trailer.

*Mobile home subdivision* means a residential development designed for the accommodation of mobile homes on individually-owned lots but not including serving tourist or vacation-oriented travel, motor homes, campers, etc.

*Modular structure* any pre-built structure delivered as a single module or as a series of modules for connection and placement on a building site or lot approved for the intended use; provided that such structure meets state specifications for modular structures.

*Nonconforming use* means a use of land or structures existing lawfully at the time of the enactment of this chapter, or at the time of a zoning amendment that does not conform with the regulations of the district in which it is located.

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

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

*Parking space, off-street*, means an area enclosed or unenclosed, containing not less than 200 square feet (10 feet by 20 feet), exclusive of driveways appurtenant thereto, permanently reserved for the temporary storage of one motor vehicle and connected without obstruction to a street or alley.

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

*Principal use of building* means a use or building in which is conducted the predominant or primary function or activity of the lot upon which it is located.

*Public land uses* means any land use operated by or through a unit or level of government, either through lease or ownership, such as municipal administration and operation, county buildings and activities, state highway offices and similar land uses; and federal uses such as post offices, bureau of public roads and internal revenue offices, military installations, etc.

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

*Roadside stand* means a temporary structure designed or used for the display or sale of agricultural and related products.

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

*Semi-public land uses* means philanthropic and charitable land uses including: YMCAs, YWCAs, Salvation Army, churches and church institutions, orphanages, humane societies, private welfare organizations, non-profit lodges and fraternal orders, hospitals, Red Cross, and other general charitable institutions.

*Setback line* means a line generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than an accessory building may be located above ground; provided in this chapter.

*Sewers, on-site*, means a septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

*Sign* means any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks or combinations thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or product which are visible from any public way and used as an outdoor display, including any base or supporting structure. Signs includes, without limitation, the following sign types:

- (1) *Billboard* means any outdoor advertising, off-premises or off-site sign advertising an establishment, merchandise, product, service, or entertainment which is not sold, provided, manufactured or furnished at the property on which the sign is located.
- (2) *Construction sign* means any sign giving the name or names of principal contractors, architects and lending institutions responsible for construction on the premises during the time actual construction work is in progress.
- (3) *Permanent sign* means a sign permanently affixed to a building or the ground.
- (4) *Political sign* means a sign identifying and urging voter support for or in opposition to a particular issue, political party, or candidate for public office.
- (5) *Portable sign* means any sign whether on its own trailer, wheels, or otherwise, which is designed to be transported from one place to another.
- (6) *Real estate sign* means a sign which advertises the sale, rental or development of the premises upon which it is located.
- (7) *Sandwich sign* means any sign, double or single faced, which is portable and may readily be moved from place to place.
- (8) *Temporary sign* means a sign or advertising display intended to be displayed for a short period of time.

- (9) *Wall sign* means a sign attached to or erected against the wall of a building with the face parallel to the plan wall.
- (10) *Window sign* means any sign placed inside or upon a window facing the outside and which is intended to be seen from the exterior.

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

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

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

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

*Street* means a dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

*Structure* means any combination of materials, including buildings, constructed or erected, the use of which requires location on the ground or attachment to anything having location on the ground, including among other things, gasoline pumps, signs, billboards, but not including utility poles, overhead wires and fences.

*Travel trailer park* means a development for the accommodation of tourists or vacationers on a short-term basis, providing rental spaces for each individual trailer, camper, motor home, etc., and recreation and service facilities for the use of the tenants, whether publicly or privately owned and whether operated for or without compensation.

*Use* means the specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

*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.

*Variance* means a modification of the strict terms of the relevant regulations in a district with regard to placement of structures, developmental criteria or provision of facilities. Examples are:

- (1) Allowing smaller yard dimensions because an existing lot of record is of substandard size;
- (2) Waiving a portion of required parking or loading space due to some unusual circumstances;
- (3) Allowing fencing or plant material buffering different from that required, due to some unusual circumstances. Available only on appeal to the board of adjustment.

*Yard* means 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.

- (1) *Front yard* means an open, unoccupied space on the same lot with the main building, extending the full

width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front lines of the building and the right-of-way line. Covered porches, whether enclosed or unenclosed, shall be considered as a part of the main building and shall not project into a required front yard. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

- (2) *Rear yard* means an open space on the same lot with the main building, such space being unoccupied except possibly by an accessory building and extending the full width of the lot and the rear line of the main building projected to the side lines of the lot. On all corner lots, the rear yard shall be at the opposite end of the lot from the front yard.
- (3) *Side yard* means an open, unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot extending from the rear line of the front yard to the front line of the rear yard. On corner lots, the side yard shall be considered to the street upon which the lot has its greatest dimension.

*Zoning administrator* means the administrative officer designated to administer this chapter and issue land use certificates.

*Zoning district* means a section of the town designated in this chapter text and delineated on the zoning map wherein all requirements for use of land and building and development standards must be uniform.

*Zoning map* means the map or maps that delineate the boundaries of zoning districts and include the town's official zoning map.

(Ord. No. 119, arts. VIII, XII, 4-16-1991; Ord. No. 119-B, 4-27-2008)

#### Sec. 38-4. - Jurisdiction.

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

(Ord. No. 119, art. II, § 2.2, 4-16-1991)

#### Sec. 38-5. - Conflict with other laws.

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

(Ord. No. 119, art. II, § 2.3, 4-16-1991)

#### Sec. 38-6. - Disclaimer of liability.

This chapter shall not create liability on the part of the town, the town board of adjustment or any officer or employee thereof for any damages that may result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. No. 119, art. II, § 2.6, 4-16-1991)

#### Sec. 38-7. - Official map.

- (a) The zoning district map on file in the office of the town clerk is adopted and made a part of this chapter. The map signed by the mayor, attested by the town clerk and filed in the office of the town clerk. The map shall show the date of adoption of the ordinance from which this chapter is derived.
- (b) If, in accordance with the provisions of this chapter, changes are made in the district boundaries or other information portrayed on the official zoning map, such changes shall be made on the map promptly after the amendment has been approved by the town council. Unauthorized alterations of the official zoning map shall be considered a violation of this chapter subject to penalties as prescribed in this chapter.

(Ord. No. 119, art. III, 4-16-1991)

Sec. 38-8. - Conformity required.

Except as otherwise specifically provided in this chapter, no building structure or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with this chapter specified for the district in which it is or is to be located.

(Ord. No. 119, art. V, § 5.11, 4-16-1991)

Secs. 38-9—38-34. - Reserved.

ARTICLE II. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 38-35. - Districts established.

The town is divided into the following zoning districts established for the purpose stated:

Category	No.	District Name	District Purpose
Residential districts:	R-1	Low density residential	To afford the opportunity for the choice of a low density residential environment consisting of single-family homes on large lots.
	R-2	Medium density residential	To provide the opportunity for medium density residential developments in single-family structures on medium sized lots.
	R-3	Multiple-family	To provide the opportunity for high density, single-family, duplex and multifamily residential development.

Business districts:	B-1	Local business	To provide for limited retail convenience goods as well as personal and professional service establishments in proximity to residential neighborhoods.
	B-2	General business	To provide for business activities not considered compatible with the more restrictive use districts, and which also serve regional as well as local markets, and which require location on major transportation routes. This district may also provide the opportunity for uses not permitted in the other use districts.
Manufacturing districts:	M-1	Manufacturing	To provide for heavy commercial and light industrial activities which will not detract from the general character of the community because of hazardous operations, unsightly appearance of buildings and surroundings, objectionable emissions, noise, odor or other factors that might be detrimental to the local environment.

(Ord. No. 119, art. VI, 4-16-1991; Ord. No. 119-A, 2-26-2008)

Sec. 38-36. - Rules for determining district boundaries.

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

- (1) Unless otherwise indicated, the district boundaries are indicated as approximately following property lines, land lot lines, centerlines of streets, highways, alleys, shorelines of streams, reservoirs, or other bodies of water, or civil boundaries, and shall be construed to follow such lines, as shown on the current the county property ownership maps.

- (2) If district boundaries are approximately parallel to the centerlines of streets, highways, or railroads, streams, other bodies of water, or the lines extended, such district boundaries shall be construed as being parallel to such distance therefrom as indicated on the official zoning map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the official zoning map.
- (3) If district boundary lines as appearing on the official zoning map divide a lot which is in single ownership at the time of this enactment, the use classification of the larger or largest portion may be extended to the remainder by the town council without recourse to the amendment procedure prescribed herein.
- (4) If a public road, street or alley is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street or alley.
- (5) If the exact location of a boundary cannot be determined by the foregoing methods, the board of adjustment shall interpret the location of the boundary.

(Ord. No. 119, art. V, § 5.2, 4-16-1991)

Secs. 38-37—38-60. - Reserved.

## DIVISION 2. - RESTRICTIONS APPLICABLE TO ALL DISTRICTS

Sec. 38-61. - One main structure per residential lot.

It is the intent of this chapter that there shall be but one main structure plus any permitted accessory structures on any lot used for residential purposes.

(Ord. No. 119, art. V, § 5.7, 4-16-1991)

Sec. 38-62. - Accessory structures not to include living quarters.

Accessory structures shall not include living quarters except that, in all districts, protective shelters approved by the emergency management agency may provide temporary living quarters.

(Ord. No. 119, art. V, § 5.7, 4-16-1991)

Sec. 38-63. - Mobile homes and similar structures restricted.

Mobile homes are permitted only in the district designated for such use. Trailers, buses, mobile homes, or any other structures so built to be, or give the reasonable appearance to be, mobile in the character of their construction will not be permitted in any district for any use other than for the purposes of transportation and transportation enterprises, except that mobile homes may be located within mobile home parks and subdivisions and other districts where permitted under this article.

(Ord. No. 119, art. V, § 5.7, 4-16-1991)

Sec. 38-64. - Metal buildings restricted.

Metal buildings may be used for any permitted use in the B-1, B-2 and M-1 districts. Metal buildings other than small utility buildings used as accessory structures are not allowed in residential zoning districts.

(Ord. No. 119, art. V, § 5.7, 4-16-1991)

Sec. 38-65. - Building heights; exceptions.

No building shall be erected, constructed or altered so as to exceed the height limit specified in this chapter for the district in which it is located except as otherwise provided in this chapter; provided, however, that the height limits for the various districts shall not apply to church spires, belfries, cupolas, penthouses, or domes not used for human habitation, or to chimneys, ventilators, skylights, water tanks, parapet walls, cornices, radio and television transmitting and receiving antennas, or necessary mechanical appurtenances usually carried above the roof level, provided that such features are limited to that height necessary for their proper functioning.

(Ord. No. 119, art. V, §§ 5.12, 5.121, 4-16-1991)

Sec. 38-66. - Lot size.

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that lot width or depth, front, side or rear yards, inner or outer courts, lot area per family or other requirements of this article are not maintained. This section shall not apply when a portion of a lot is acquired for public use.

(Ord. No. 119, art. V, § 5.13, 4-16-1991)

Sec. 38-67. - Yards.

No part of a yard or other open space required for any building for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other open space similarly required for another building. Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, cornices, buttresses, ornamental features, chimneys, flues, and eaves.

(Ord. No. 119, art. V, § 5.14, 4-16-1991)

Sec. 38-68. - Screening, lighting and space.

- (a) In any nonresidential district, any operation not conducted within a building, such as drive-in businesses, outdoor recreation, outdoor storage of materials, and outdoor servicing activities, shall be provided with a minimum buffer of ten feet in addition to yard requirements, and shall be enclosed by a wall or fence of solid appearance or a planting strip where it is necessary to conceal such areas or facilities from a residential district adjoining or facing across a street in the rear or on the side of the principal building or use.
- (b) If a screen planting strip is provided as a protection buffer, it shall be at least ten feet in width, shall be planted with materials in sufficient density and of sufficient height (but in no case less than six feet high at the time of planting) to afford protection to adjoining residential districts from the glare of lights, from blowing papers, dust and debris, from visual encroachment, and to effectively reduce the transmission of noise. Such screen planting shall be maintained in a clean and neat condition and in such manner as to accomplish its purpose continuously.
- (c) Outdoor lighting of all types shall be directed so as to reflect away from all residential dwellings, and shall be so situated as not to reflect directly into any public right-of-way.
- (d) All screening, lighting, space, etc., shall be in good condition and appearance. The zoning administrator may cause to be removed, replaced, repaired or corrected at the owner's expense, any screening, lighting and

space improperly maintained.

(Ord. No. 119, art. V, § 5.4, 4-16-1991)

Sec. 38-69. - Septic tanks.

In areas where there are no sewerage facilities, septic tanks may be used in accordance with current regulations of the state department of public health and the county health department.

(Ord. No. 119, art. V, § 5.5, 4-16-1991)

Sec. 38-70. - Parking and loading.

- (a) *Off-street automobile storage.* In each zoning district, each structure shall be provided with off-street vehicle storage and parking facilities in accordance with the following:
- (1) *Residential storage.* In all cases of new structures, converted structures which are increased in capacity, facilities for the storage of passenger vehicles for the use of the occupants of the dwelling units erected, altered or increased in capacity, two parking spaces for each dwelling unit shall be provided and maintained on the premises.
  - (2) *Nonresidential storage.* In all cases of new structures or converted structures which are increased in capacity, facilities for the storage of vehicles for the use of the occupants, employees, and patrons of buildings erected, altered or increased in capacity shall be provided and maintained on the premises in accordance with the requirements of each type of use as follows:
    - a. *School parking.* One parking space for each three seats in the main assembly room plus one space for each classroom.
    - b. *Churches, community buildings, auditoriums, and places of public assembly.* One parking space for each four seating spaces in the main assembly area (based on an 18-inch seat width), or in the case of general purpose rooms without fixed seats, there shall be one parking space for every 40 square feet of floor area.
    - c. *Hotels.* One parking space for each guest room and each employee anticipated to be on the premises at any one time.
    - d. *Motel, tourist courts and homes, boardinghomes, roominghouses.* One parking space for each room or unit offered for rent plus one space for each employee anticipated to be on the premises at any one time.
    - e. *Clinics or professional offices.* One parking space for each professional or employee plus one parking space for each two seats in the reception room, or one parking space for each 25 square feet of floor space in such area, whichever is the greater.
    - f. *Restaurants or other eating places.* One parking space for each three seats plus one space for each employee anticipated to be on the premises at any one time, or one parking space for each 50 square feet of floor space in such area, whichever is the greater.
    - g. *Office and office buildings.* One parking space for each 200 square feet of floor area.
    - h. *Bowling alley.* Five parking spaces for each alley.
    - i. *Industrial uses.* One parking space for each employee whose duties involve his presence at the industrial site at any one item plus five spaces.
    - j. *Mobile home parks and subdivisions.* Two parking spaces for each mobile home.

- k. *Planned shopping center.* The area devoted to parking and access shall not be less than three times the proposed; and within this parking area there shall be a minimum of eight parking spaces per 1,000 square feet. Up to 50 percent of this area may be maintained as landscaped lawn suitable for the temporary and occasional use of automobiles. Parking shall be in addition to loading and unloading areas, walkways, and obstructions to traffic.
  - l. *Hospital, sanitarium, or nursing homes.* One parking space for each three beds plus one space for each staff or visiting doctor plus one space for each three employees.
  - m. *Private club or lodge.* One parking space for each four members.
  - n. *Food stores and markets.* One parking space for each 200 square feet of floor area.
  - o. *Wholesale uses and storage buildings, warehouses, lumber or fuels business, truck terminals and similar uses.* One parking space for each one and one-half employees.
  - p. *Any use not otherwise specified.* One parking space for each 180 square feet of floor space.
- (3) *Multiple uses.* When two or more uses shall be made of the same property, the parking requirements for each shall apply. When a structure or use may qualify under two or more classifications, the one with the larger requirement shall govern.
- (4) *Existing parking.* Any building which meets the parking requirements on the effective date of the ordinance from which this chapter is derived, or at any subsequent time, shall continue to comply fully with all requirements thereof. Any existing building which partially meets the requirements on the effective date of the ordinance from which this chapter is derived, or at any subsequent time, shall continue to comply as nearly with these requirements as the highest degree of compliance reached.
- (5) *Parking area to be counted for one building or structure only.* No off-street parking required for a building or structure shall during its life be occupied by or counted as off-street parking for another building or structure but may be counted as yard space.
- (6) *Design.* No parking space shall be so designed as to require the vehicle therein to back onto a public street, with the exception of those at single and two-family residences.
- (7) *Surfacing.* All off-street parking areas except those for single- and two-family residences and mobile homes shall be surfaced according to the town's specifications.
- (8) *Storage lanes.* All nonresidential establishments providing drive-up services shall provide lanes for access to drive-up facilities in order to avoid traffic congestion on public rights-of-way.
- (b) *Off-street loading and unloading.* In all business districts, each structure erected or altered shall be provided with adequate off-street loading and unloading facilities as specified in the district schedule. Such space is to be in addition to space required for parking and obstructions to vehicles loading and unloading.

(Ord. No. 119, art. VIII, §§ 8.12, 8.14—8.17, 8.2, 4-16-1991)

Sec. 38-71. - Corner visibility.

In any district requiring a front yard setback, no fence, wall, shrubbery, sign, marquee, or other obstruction to vision between the heights of 3½ feet and 15 feet above street level shall be permitted within 20 feet of the intersection of the right-of-way lines of two streets or railroads or of a street and a railroad right-of-way line.

(Ord. No. 119, art. VIII, § 8.3, 4-16-1991)

Sec. 38-72. - Setback for accessory structure within 25 feet of rear lot line.

Accessory structures within 25 feet of the rear lot line of a corner lot shall be set back the minimum yard depth required on the side street.

(Ord. No. 119, art. VIII, § 8.3, 4-16-1991)

Sec. 38-73. - Future street lines.

On any lot which, at the time of adoption of this chapter or at the time this chapter is changed by amendment hereafter, may be reduced in area by widening a public street to a future street line, the minimum required yards, the minimum required lot area, the minimum required lot width and the maximum building area shall be measured by considering the future street lines as the lot line of such lot.

(Ord. No. 119, art. VIII, § 8.4, 4-16-1991)

Sec. 38-74. - Surface drainage.

Owners in the process of development shall take such steps necessary to prevent runoff which may have the potential for causing flood damage to neighboring property. The zoning administrator shall, in consultation with the town, determine that reasonable provisions for properly handling surfacing drainage have been made in the applicant's design.

(Ord. No. 119, art. VIII, § 8.6, 4-16-1991)

Sec. 38-75. - Home occupations.

In districts where home occupations are permitted, they shall be subject to the following restrictions:

- (1) No person other than members of the family residing on the premises shall be engaged in the home occupation.
- (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- (3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, non-illuminated, and mounted flat against the wall of the principal building.
- (4) No home occupation shall be conducted in any accessory building.
- (5) There shall be no sales or public display of goods in connection with such home occupation.
- (6) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- (7) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the cause of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

(Ord. No. 119, art. XII, 4-16-1991)

## Sec. 38-76. - Nuisance abatement.

The zoning board of adjustment may require the conduct of any use, conforming or nonconforming, which results in unreasonable noise, gas, smoke, vibration, fumes, dust, fire, or explosion hazard or nuisance to surrounding property to be modified or changed to abate such hazard to health, comfort, and convenience. The zoning board of adjustment may direct the zoning administrator to issue an abatement order, but such order maybe directed only after a public hearing by the board, notice of which shall be sent by registered mail to the owners or operators of the property on which the use is conducted in addition to due notice of advertisement in the same manner used to advertise hearings on zoning changes. A hearing to consider issuance of an abatement order shall be held by the zoning board of adjustment either upon petition signed by any person affected by the hazard or nuisance or upon the initiative of the board. An abatement order shall be directed by the zoning board of adjustment only upon reasonable evidence of hazard or nuisance and such order shall specify the date by which the hazard or nuisance shall be abated.

(Ord. No. 119, art. VIII, § 8.5, 4-16-1991)

## Secs. 38-77—38-95. - Reserved.

## DIVISION 3. - RESTRICTIONS APPLICABLE TO SPECIFIC DISTRICTS

## Sec. 38-96. - R-1—Low density residential district.

- (a) *Permitted uses generally.* The following uses are permitted generally in the R-1—low density residential district: single-family dwellings, agriculture uses, accessory structures (carports and utility rooms and structures used for residential storage), gardens, playgrounds, parks, public buildings of a governmental nature including public schools, libraries and fire stations.
- (b) *Permitted uses on appeal.* The following uses are permitted only when approved on appeal: customary home occupations; public utilities; substations; pumping stations; public buildings of a proprietary nature; public utility structures such as electric substations, cellular towers and similar structures; group-assisted living facility, except primarily for mental cases; churches; cemeteries; semi-public buildings; golf courses; municipal, county, state or federal uses.
- (c) *Prohibited uses.* The following uses are prohibited: mobile homes, house trailers, trailer courts or camps duplexes and multifamily; business, commercial and industrial uses, including parking lots or parking areas in connection with those uses not specifically permitted; off-site advertising structure such as billboards.
- (d) *Minimum lot area.* The minimum lot area shall be 10,000 square feet, unless a greater area is required by the county health department, and the minimum required lot width at the building line (setback line) shall be 80 feet. Accessory structures shall have minimum side and rear yards of five feet.
- (e) *Minimum yard size.* Minimum yard sizes are as follows: front—30 feet, rear—30 feet and side—ten feet. On a corner lot, a setback of 30 feet is required on each side abutting a street.
- (f) *Maximum height.* Maximum height of any structure in this district is 35 feet or 2½ stories.
- (g) *Maximum building area.* The maximum building area shall be 25 percent of the lot area.
- (h) *Off-street parking.* Two off-street parking spaces per principal structure are required.

(Ord. of. 11-28-2007; Ord. No. 119-A, 2-26-2008)

## Sec. 38-97. - R-2—Medium density residential district.

- (a) *Permitted uses generally.* The following uses are permitted generally in the R-2—medium density residential district: single-family dwellings, accessory structures, playgrounds, parks, public buildings of a governmental nature including public schools, libraries and fire stations.
- (b) *Permitted uses on appeal.* The following uses are permitted only when approved on appeal: home occupations; public utilities; substations; pumping stations; public buildings of a proprietary nature; public utility structures such as electric substations, cellular towers and similar structures; group-assisted living facility except primarily for mental cases; private schools; churches; cemeteries; semi-public buildings; golf courses; municipal, county, state or federal uses.
- (c) *Prohibited uses.* The following uses are prohibited: business, commercial, industrial uses and services conducted for profit, including parking lots or parking areas in connection with those uses not specifically permitted, off-site advertising structures, billboards, signs, mobile homes, house trailers, trailer courts or camps, duplexes and multifamily structures, overnight parking of any vehicle used in a business for profit, storage, excavation for minerals, excavation of surface materials and exploration for all other minerals.
- (d) *Minimum lot area.* The minimum lot area shall be 7,500 square feet, unless a greater area is required by the county health department, and the minimum required lot width at the building line (setback line) shall be 70 feet. Accessory structures shall have minimum side and rear yards of five feet.
- (e) *Minimum yard size.* Minimum yard sizes are as follows: front—25 feet, rear—30 feet and side—ten feet. On a corner lot, a setback of 30 feet is required on each side abutting a street.
- (f) *Maximum height.* Maximum height of any structure in this district is 35 feet or 2½ stories.
- (g) *Maximum building area.* The maximum building area shall be 30 percent of the lot area.
- (h) *Off-street parking.* Two off-street parking spaces per principal structure are required.

(Ord. of. 11-28-2007)

## Sec. 38-98. - R-3—Multiple-family residential district.

- (a) *Permitted uses generally.* The following uses are permitted generally in the R-3—multiple-family residential district:
  - (1) Residential dwellings, multiple-family dwellings consisting of apartments, townhouses, duplexes, condominiums, and similar developments.
  - (2) Manufactured or mobile homes on individual lots and mobile home parks as approved by the planning commission.
  - (3) Single-family dwellings, accessory structures, playgrounds, parks, public buildings of a government nature including public schools, libraries and fire stations.
- (b) *Permitted uses on appeal.* The following uses are permitted only when approved on appeal: public utilities; substations; pumping stations; public buildings of a proprietary nature; public utility structures such as electric sub-stations, cellar towers and similar structures; group-assisted living facility, except primarily for mental cases; private schools; churches; cemeteries; semi-public buildings.
- (c) *Prohibited uses.* The following uses are prohibited: business, commercial, industrial uses and services conducted for profit unless specifically permitted in this section, home occupations unless permitted by the board of adjustment, billboards, signs, overnight parking of any vehicle used in a business for profit, storage, excavation of surface materials, and excavation for minerals and exploration for all other minerals.
- (d) *Minimum lot area and density.* The minimum lot area shall be 7,500 square feet for the first single-family unit

and an additional 3,000 square feet for each additional unit, with a maximum bedroom density of 45 bedrooms per acre but the planning commission shall have discretion as to maximum number allowable, depending on area or location.

- (e) *Minimum yard size.* Minimum yard sizes are as follows: front—30 feet, rear—35 feet and side—ten feet. On a corner lot, a setback of 30 feet is required on each side abutting a street.
- (f) *Maximum height.* Maximum height of any structure in this district is 35 feet or 2½ stories.
- (g) *Maximum building area.* The maximum building area shall be 35 percent of the lot area.
- (h) *Off-street parking.* One space per each dwelling unit.

(Ord. of 11-28-2007; Ord. No. 119-A, 2-26-2008)

Sec. 38-99. - B-1—Local business district.

- (a) *Permitted uses generally.* The following uses are permitted generally in the B-1—local business district: single-family dwellings, accessory structures, playgrounds, parks, public buildings of a governmental nature, including public schools, libraries and fire stations.
- (b) *Permitted uses on appeal.* The following uses are permitted only when approved on appeal: home occupations; public utilities; substations; pumping stations; public buildings of a proprietary nature; public utility structures such as electric substations, cellular towers and similar structures; group-assisted living facility, except primarily for mental cases; private schools; churches; cemeteries; semi-public buildings; golf courses; municipal, county, state or federal uses.
- (c) *Prohibited uses.* The following uses are prohibited: business, commercial, industrial uses and services conducted for profit, including parking lots or parking areas in connection with those uses not specifically permitted, off-site advertising structure, billboards, signs, mobile homes, house trailers, trailer courts or camps duplexes and multifamily, overnight parking of any vehicle used in a business for profit, storage, excavation for minerals, excavation of surface materials and exploration for all other minerals.
- (d) *Minimum lot area.* The minimum lot area shall be 7,500 square feet, unless a greater area is required by the county health department, and the minimum required lot width at the building line (setback line) shall be 70 feet. Accessory structures shall have minimum side and rear yards of five feet.
- (e) *Minimum yard size.* Minimum yard sizes are as follows: front—25 feet, rear—30 feet and side—ten feet. On a corner lot, a setback of 30 feet is required on each side abutting a street.
- (f) *Maximum height.* Maximum height of any structure in this district is 35 feet or 2½ stories.
- (g) *Maximum building area.* The maximum building area shall be 30 percent of the lot area.
- (h) *Off-street parking.* Two off-street parking spaces per principal structure are required.
- (i) *Site plan required.* The owner shall submit a detailed site plan which shall include, as a minimum, building placement and floor plan including location of electrical panel and security lighting, landscaping and drainage plan, traffic ingress and egress including vehicle access completely around the building as well as details of parking and loading and unloading areas, and other criteria deemed appropriate by the town council may be required to accompany all applications for a zoning certificate of compliance or a rezoning petition.

(Ord. No. 119-A, 2-26-2008)

Sec. 38-100. - B-2—General business district.

- (a) *Permitted uses generally.* The following uses are permitted generally in the B-2—general business district:
  - (1) Residential dwellings, multiple-family dwellings consisting of apartments, townhouses, duplexes,

condominiums, and similar developments.

- (2) Manufactured or mobile homes on individual lots and mobile home parks as approved by the planning commission.
  - (3) Single-family dwellings, accessory structures, playgrounds, parks, public buildings of a government nature including public schools, libraries and fire stations.
- (b) *Permitted uses on appeal.* The following uses are permitted only when approved on appeal: public utilities; substations; pumping stations; public buildings of a proprietary nature; public utility structures such as electric substations, cellar towers and similar structures; group assisted living facility, except primarily for mental cases; private schools; churches; cemeteries; semi-public buildings.
- (c) *Prohibited uses.* The following uses are prohibited: business, commercial, industrial uses and services conducted for profit unless specifically provided herein, home occupations unless permitted by the board of adjustment, billboards, signs, overnight parking of any vehicle used in a business for a profit, storage, excavation of surface materials, and excavation for minerals and exploration for all other minerals.

(Ord. No. 119-A, 2-26-2008; Ord. No. 119-B, 4-27-2010)

Sec. 38-101. - M-1—Manufacturing district.

- (a) *Permitted uses generally.* The following uses are permitted generally in the M-1—manufacturing district: any heavy commercial or light industrial operations such as ice cream plants, creameries, cold storage plants, bottling and central distribution plants, baking plants, dry cleaning and laundry plants, mortuaries and funeral homes, wholesale and warehousing establishments, trucking firms, computer and similar high-technology plants.
- (b) *Permitted uses on appeal.* The following uses are permitted only when approved on appeal: any heavy commercial or light industrial use not specifically prohibited including a residence for a watchman or custodian and his family. Any use permitted on appeal shall be subject to such conditions and safeguards as the board of adjustment may require to preserve and protect any part of the town that could be adversely affected by the proposed use.
- (c) *Prohibited uses.* The following uses are prohibited: any commercial or manufacturing operation that would be obnoxious, offensive or detrimental to the neighboring area or any part of the town by reason of dust, smoke, vibration, noise, odor, effluent or other degrading factors; residences, apartments, mobile homes, travel trailers and recreational vehicles.
- (d) *Minimum lot area.* Lots shall be of sufficient size for the intended commercial or industrial use, including the provision of adequate space to meet the site plan requirements submitted as required by this section.
- (e) *Minimum yard size.* Minimum yard sizes are as follows:
  - (1) Front—50 feet or the average of setbacks of existing structures within 200 feet on each side, whichever is less;
  - (2) Rear—20 feet;
  - (3) Side—Not specified except on a lot which adjoins a residential district;
  - (4) Lots adjoining residential district—Side or rear yards (buffer) shall not be less than 20 feet and shall be in addition to driveways or parking areas. Such side or rear buffers shall contain adequate trees and grass or other acceptable screening from the residential lot or district and shall be maintained in good condition by the owner.
- (f) *Maximum height.* Any building in excess of 35 feet or two stories shall be subject to approval of the town council after consultation with the fire authorities of the community.

- (g) *Maximum building area.* The maximum building area shall be 25 percent of the lot area.
- (h) *Off-street parking.* Off-street parking shall be as provided in section 40-39.
- (i) *Off-street loading and unloading.* Adequate space for off-street loading and unloading shall be provided on side or rear yards regardless of whether the property adjoins a public or private alley.
- (j) *Driveways.* Minimum driveway widths shall be 12 feet. Driveways shall not be in a yard adjoining a residential lot or district unless driveway space is provided in addition to the required buffer area adjacent to any residential lot.
- (k) *Site plan required.* The owner shall submit a detailed site plan which shall include, as a minimum, building placement and floor plan including location of electrical panel and security lighting, landscaping and drainage plan, traffic ingress and egress including vehicle access completely around the building as well as details of parking and loading and unloading areas, and other criteria deemed appropriate by the town council may be required to accompany all applications for a zoning certificate of compliance or a rezoning petition.

(Ord. No. 119, art. VII, 4-16-1991)

Secs. 38-102—38-130. - Reserved.

### ARTICLE III. - MANUFACTURED AND MOBILE HOMES

Sec. 38-131. - Mobile home parks.

- (a) *Applicability.* In districts where mobile home parks are permitted, the minimum standards of this section shall apply, as well as the present minimum regulations established by the state board of public health.
- (b) *Minimum park area, yard and height.* Mobile home parks shall have an area of not less than three acres or 15 home spaces and a minimum of 25 feet of front, rear and side yard space. No structure in a mobile home park shall exceed one story or 15 feet in height.
- (c) *Minimum mobile home area, lot, yard and parking requirements.* Mobile home lots shall have a minimum area of 4,000 square feet. The lot shall be not less than 40 feet wide with a front yard of not less than ten feet. There shall be not less than 20 feet between mobile homes. There shall be two off-street parking spaces for each mobile home space, and parking spaces shall be surfaced with all-weather materials.
- (d) *Access roads.* Access roads within mobile homes parks shall be not less than 24 feet and shall be paved with a hard-surfaced treatment.
- (e) *Off-street guest parking.* There shall be established and maintained park off-street guest parking facilities at a ratio of one space per four mobile home spaces. If access roads are paved to a width of 32 feet, guest off-street parking spaces shall not be required.
- (f) *Pad size and construction design.* Each mobile home space shall be equipped with a pad ten feet wide by 45 feet long of six inches of compacted gravel, concrete or other similar material.
- (g) *Space for connection of utilities.* Each mobile home space shall be furnished with connections to public water, septic tanks and electrical utilities.
- (h) *Utility connection required.* Each mobile home shall be connected to the municipal water system and to the municipal sewage disposal system, if available. The design and specifications of the utility systems shall meet town specifications. If the municipal utility system is not available, then a private central system shall be

required until such time as the municipal systems become available. Such system shall be designed and installed under the supervision of a registered engineer and in compliance with health department requirements.

- (i) *Grading of ground surfaces; drainage.* The ground surface in all parts of a park shall be graded and equipped to drain all surface water in a safe, efficient manner. The adequacy of drainage facilities shall be verified by a licensed professional engineer.
- (j) *Access and traffic circulation.* Mobile home park streets and entrances shall comply with the following standards and specifications:
  - (1) Internal streets shall be privately owned, built and maintained and shall be designed for safe and convenient access to all stands and parking spaces and to common use of park facilities.
  - (2) An internal street or common access route shall be provided to each stand. The street shall be a minimum of 24 feet in width. The internal street shall be continuous or shall be provided with a cul-de-sac having a minimum radius of 60 feet. No internal street ending in a cul-de-sac shall exceed 400 feet in length.
  - (3) Internal streets shall be maintained free of cracks, holes, and other hazards at the expense of the park owner.
  - (4) Interior streets shall intersect adjoining public streets at 90 degrees and at locations which will eliminate or minimize interference with the traffic of those public streets.
  - (5) All streets shall be constructed to meet the minimum specifications for streets within the town with the exception of curbing. Curbing, if constructed, shall be approved by the town.
  - (6) All streets within each park shall be numbered or named in an approved manner.
  - (7) At each entrance to the park, an 18-inch by 24-inch sign should be posted stating "private drive, no through traffic." The park owner may also post a speed limit sign on this same post.
- (k) *Park lighting.* Adequate lighting shall be provided in a manner approved by the town. All electric and telephone lines should be placed underground when possible.
- (l) *Recreation area.* All mobile home parks shall have at least one recreation area located to be free of traffic hazards, easily accessible to all park residents and centrally located where topography permits. Not less than ten percent of the gross park area shall be maintained in a usable and sanitary condition by the park owner for recreational purposes.
- (m) *Nonresidential use of homes prohibited.* Mobile homes may not be used for nonresidential use within mobile home parks.
- (n) *Unit standards.* To protect the health and safety of the public and assure quality construction, all mobile home units shall conform to standards approved by the American National Standards Institute (ANSI) in its Standards for Mobile Homes, A 119.1 - 1969, as amended.

(Ord. No. 119, art. VIII, § 8.7, 4-16-1991)

Sec. 38-132. - Mobile homes placed outside mobile home parks.

- (a) *State and local licensed contractor required for setup.* Contractors doing any and all work required in the setup and installation of a manufactured or mobile home shall be licensed by the state prior to receiving a license from the town as is the same for erecting other types of structures, prior to the issuance of a building permit and a subsequent certificate of occupancy.
- (b) *Planning commission approval required.* Placement of a manufactured or mobile home may be permitted only

after the planning commission has reviewed the planned placement and determined that the manufactured home is compatible with the general appearance of homes in the surrounding area.

- (c) *Minimum location, construction and installation and other standards.* All mobile home installations outside mobile home parks shall comply with the following minimum standards:
- (1) *Neighborhood conformity.* The general shape, width, and appearance of the manufactured or mobile home shall conform to housing in adjacent or nearby locations.
  - (2) *Site orientation.* Manufactured and mobile homes shall be placed on the lot in such a manner as to be compatible with and reasonably similar in orientation to the other structures in the area.
  - (3) *Age of structure.* Manufactured or mobile homes installed in the town shall not exceed ten years of age.
  - (4) *Towing devices to be removed.* All towing devices, including but not limited to wheels, axles, hitches, and transportation lights must be removed.
  - (5) *Foundation enclosure.* The manufactured or mobile home's foundation forms an enclosure under exterior walls, unpierced except for ventilation and access, and conforms to the Uniform Standards Code for Manufactured Homes Act, Code of Ala. 1975, § 24-5-1 et seq. The type of material and method used for underpinning shall be consistent with that for site-built houses in adjacent or nearby locations.
  - (6) *Home construction restrictions.* To protect the health and safety of the public and ensure quality construction, all mobile home units shall conform to standards approved by the American National Standards Institute (ANSI) in its Standards for Mobile Homes, A 119.1-1969, as amended.

(Ord. No. 119, art. VIII, 4-16-1991; Ord. No. 119-B, 4-27-2008)

Secs. 38-133—38-162. - Reserved.

#### ARTICLE IV. - PRE-EXISTING AND NONCONFORMING USES, LOTS AND STRUCTURES

Sec. 38-163. - General purpose and intent.

Within the districts established by this chapter or amendments that may later be adopted, there may exist lots, structures, uses of land and structures and characteristics of use that were lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments.

- (1) It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- (2) Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this chapter.
- (3) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction was carried on diligently.
- (4) Any use of buildings or land existing on the date of adoption of this chapter and not in compliance with its provisions, unless elsewhere restricted by other provisions of this article, shall be allowed to continue

as a nonconforming use. Any land development projects within the territorial and legal authority of this article that are not located in a district designated for their intended use may be permitted to continue, provided that:

- a. The project was under construction prior to the date of adoption of this article. For the purpose of this section, under construction shall mean that actual construction, as determined by the town council, has been started.
- b. The town reserves the right to require compliance with the requirements of this article for districts in which similar uses are permitted; and
- c. Other conditions may be required by the town due to the unique circumstances of the land.

(Ord. No. 119, art. V, § 5.3, 5.6, 4-16-1991)

Sec. 38-164. - Unsafe structures.

Any structure or portion thereof declared unsafe by any authority may be restored to a safe condition, provided the requirements of this division are met.

(Ord. No. 119, art. V, § 5.31, 4-16-1991)

Sec. 38-165. - Alterations.

Any change in a nonconforming building site or yard area is subject to the following:

- (1) Any improvements, alterations, repairs or installation of new fixtures or equipment for an existing nonconforming structure may be accomplished by the owner of the structure; provided that such improvements will not be detrimental to the area, will not increase the non-conformity, and will, in all other respects, meet the requirements of the district.
- (2) Should a nonconforming building be moved, all nonconforming yard area shall be eliminated.
- (3) A nonconforming use of land shall be restricted to the lot occupied by such use as of the effective date of the ordinance from which this chapter is derived. A nonconforming use of buildings shall not be extended to include either additional buildings or land after the effective date of the ordinance from which this chapter derived.
- (4) A nonconforming building, structure, or improvement which is damaged or destroyed to an extent exceeding 50 percent of the reasonable estimated replacement cost of the structure, building or improvement may not be reconstructed or restored to the same non-conforming use except upon approval of the board of adjustment. Such damaged or destroyed structures that are no longer in use shall be removed and the site cleared at the owner's expense.

(Ord. No. 119, art. V, § 5.32, 4-16-1991)

Sec. 38-166. - Termination of permitted nonconforming status.

- (a) *Change in ownership.* Any nonconforming use of land or structures shall automatically cease upon change of ownership and any use of such land or structures by the new owner shall be in conformity with the provisions of this chapter.
- (b) *Change in use.* A nonconforming use which is changed to a conforming use shall not be permitted to revert to the original or a less restrictive use. A nonconforming use shall not be permitted to change to any other

nonconforming use.

- (c) *Discontinuance*. A nonconforming use which became such upon the adoption of this chapter and which has been discontinued for a continuous period of one year shall not be re-established and any future use shall be in conformity with the provisions of this chapter.

(Ord. No. 119, art. V, §§ 5.33—5.35, 4-16-1991)

Sec. 38-167. - Adjacent properties.

The presence of a nonconforming use in a zoning district shall not be allowable as legal grounds for the granting of variances or zoning amendments for other surrounding properties by the board of adjustment.

(Ord. No. 119, art. V, § 5.36, 4-16-1991)

Sec. 38-168. - Access to public streets.

Access to public streets shall be maintained such that each principal use is placed on a lot or parcel that provides frontage on a public street having a right-of-way of not less than 60 feet, except where existing public rights-of-way are less than 60 feet.

(Ord. No. 119, art. V, § 5.37, 4-16-1991)

Sec. 38-169. - Yard requirements.

Yard requirements shall be modified subject to the following conditions:

- (1) On double frontage lots, the required front yard shall be provided on each street.
- (2) Whenever a rear or side property line of a lot abuts upon an alley, one-half of the alley width shall be considered as a portion of the required yard.
- (3) An unroofed porch shall not project into a required front yard for a distance exceeding five feet.
- (4) On substandard lots of record, the front, side and rear setbacks may be less than required in this chapter; provided that no front setback shall be less than the average setback of the existing developed lots on the same block and on the same side of the street; no side setback shall be reduced to less than five feet; and no rear setback shall be reduced to less than 15 feet. The amount of reduction up to these limits shall be determined by the zoning administrator in consideration of the lot size and the size of the proposed structure.
- (5) The setback requirements for side yards or front yards on corner lots shall not apply to any lot where the average setback on residentially developed lots located, wholly or in part, 100 feet on each side of such lot and within the same block and zoning district and fronting on the same streets as such lot, is less than the minimum required setback. In such cases, the setback on such lot may be less than the required setback, but not less than the average of the existing setbacks on the existing developed lots.

(Ord. No. 119, art. V, § 5.38, 4-16-1991)

Secs. 38-170—38-191. - Reserved.

ARTICLE V. - EXCEPTIONS AND MODIFICATIONS

Sec. 38-192. - Lots too small to conform to requirements.

Where the owner of a lot of official record at the time of adoption of this chapter does not own sufficient adjacent land to enable him to conform to the yard and other requirements of this chapter, one building and its accessory structures may be built, provided the yard space and other requirements conform as closely as possible, in the opinion of the zoning administrator, to the requirements of the district in which it is located; and further provided that neither side yard shall be reduced to less than five feet in width.

(Ord. No. 119, art. IX, § 9.1, 4-16-1991)

Sec. 38-193. - New structure built between existing nonconforming structures.

Where a new structure is to be built between two existing structures not conforming to required front yard setbacks, the zoning board of adjustment may rule separately on the required minimum setback of any structure to be erected or altered upon the request of the lot owner. In the absence of such request by the owner or the owner's agent prior to commencing of construction, the front yard setback shall be as specified for each district and measurement shall be from the property line. On double frontage lots, the required front yard shall be provided on each street.

(Ord. No. 119, art. IX, § 9.2, 4-16-1991)

Sec. 38-194. - Advertising signs and structures.

In all districts other than residential districts, where a front yard setback is required, outdoor advertising structures may be placed within such front yard or setback area of a place of business subject to the following terms and conditions:

- (1) Only one sign structure shall be used for the purpose of identifying the place of business at that location. Signs may be freestanding or they may be painted on or attached flat against walls.
- (2) Such structures shall be placed between four and 15 feet above street level.
- (3) No such structure shall be placed at intersections or locations which would obstruct the view of intersecting traffic.
- (4) No sign face shall exceed 50 square feet in area, exclusive of necessary structural support, or shall a sign be placed within ten feet of the front lot line or street right-of-way.

(Ord. No. 119, art. IX, § 9.3, 4-16-1991)

Sec. 38-195. - Temporary uses of mobile home type units during construction work.

Temporary buildings including trailers and mobile home type units used in conjunction with construction work, may be permitted during the period that construction work is in progress, but such temporary buildings shall be removed upon completion of the construction work.

(Ord. No. 119, art. IX, § 9.4, 4-16-1991)

Sec. 38-196. - Special exception uses not to be deemed nonconforming uses.

Any use which is permitted on appeal as a special exception in any district under the terms of this chapter shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

(Ord. No. 119, art. IX, § 9.5, 4-16-1991)

Sec. 38-197. - Cessation of business uses of mobile homes.

Any existing mobile home, travel trailer or recreational vehicle being used for any business purpose in a B-1, B-2 or M-1 district on the date of adoption of this chapter must be removed within two years of the date of adoption of this chapter. Such mobile home, travel trailer or recreational vehicle may be replaced with an approved permanent structure that conforms to the requirements of this chapter.

(Ord. No. 119, art. IX, § 9.6, 4-16-1991)

Sec. 38-198. - Annexations.

All territory which may be annexed into the town shall be considered to be in the R-1 district until otherwise classified by the town council after a public hearing as required by law.

(Ord. No. 119, art. IX, § 9.7, 4-16-1991)

Secs. 38-199—38-219. - Reserved.

## ARTICLE VI. - ADMINISTRATION AND ENFORCEMENT

### DIVISION 1. - GENERALLY

Sec. 38-220. - Zoning administrator.

The zoning administrator:

- (1) Shall be any town employee designated by the town council.
- (2) Is authorized and empowered on behalf and in the name of the town council to administer and enforce the provisions of this chapter and to issue certificates of zoning compliance for uses and structures which are in conformance with the provisions of this chapter.
- (3) Does not have the authority to take final action on applications or matters involving appeals, variances, non-conforming uses, or other exceptions which this chapter has reserved for public hearings before the board of adjustment or the town council.
- (4) Shall keep records of all certificates of compliance issued, and of all maps, plats and other documents with notations of any special conditions involved.
- (5) Shall file and safely keep copies of all sketches and plans submitted, and the same shall form a part of the records of his office and shall be a public record.

(Ord. No. 119, art. X, § 10.1, 4-16-1991)

Sec. 38-221. - Chapter amendments.

- (a) The town council may, from time to time, after examination and review give public notice and hold public hearing thereon, amend, supplement or change the regulations and zoning districts herein or subsequently established.

- (b) The planning commission may, upon its own initiative, hold public hearings or public notices on which shall be given consideration any proposed amendment to the provisions of this chapter or to the zoning map of the town, and its recommendation to the mayor and town council.
- (c) Before adoption of any proposed ordinance, regulation or amendment thereto, this chapter, regulation or amendment shall be published in accordance with procedures as set out in Code of Ala. 1975, § 11-52-77.

(Ord. No. 119, art. XI, §§ 11.1—11.3, 4-16-1991; Ord. of 11-28-2007; Ord. No. 119-A, 2-26-2008)

Sec. 38-222. - Certificate of compliance required.

No land or building or other structure or part thereof erected, moved or altered in its use shall be used until the zoning administrator of the town shall have issued a certificate of compliance stating that such land or structure or part thereof is found to be in conformity with the provisions of this chapter.

(Ord. No. 119, art. X, § 10.13, 4-16-1991)

Sec. 38-223. - Penalties.

Any persons violating any provision of this chapter shall be fined upon conviction not less than \$2.00 or more than \$100.00 and costs of court for each offense. Each day such violation continues shall constitute a separate offense.

(Ord. No. 119, art. X, § 10.4, 4-16-1991)

Sec. 38-224. - Other remedies.

In case any building or structure is to be erected, constructed, reconstructed, altered, or converted, in violation of this chapter, the zoning administrator, legal officer, or other appropriate authority or any adjacent or neighboring property owner who would be especially damaged by such violation may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate such violation; or to prevent the occupancy of the building, structure, or land. Each and every day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues shall be deemed a separate offense.

(Ord. No. 119, art. X, § 10.5, 4-16-1991)

Secs. 38-225—38-241. - Reserved.

DIVISION 2. - BOARD OF ADJUSTMENT

Sec. 38-242. - Composition, general procedure, powers and duties.

- (a) *Established; membership; terms.* The town council has established a board of adjustment consisting of five members, appointed by the town council, for overlapping terms of three years. In addition, two supernumerary members shall be appointed to serve at the call of the chairman only in the absence of regular members. Such members shall be appointed for three years and shall be eligible for reappointment. The initial appointment of the board of adjustment shall be as follows: two members for one year; two members for two years; and one member for three years.

- (b) *Vacancies.* Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members may be removed for cause by the town council upon written charges and after public hearing thereon.
- (c) *No public office to be held by members.* No members shall hold any other public office or position, except that one member may be a member of the town planning commission if such exists.
- (d) *Chairperson and secretary.* The board shall elect one of its members, other than a member of the planning commission, as chairperson, who shall serve for one year or until he is re-elected or his successor is elected. The board shall appoint a secretary.
- (e) *Rules of procedure.* The board shall adopt rules in accordance with the provisions of this chapter for the conduct of its affairs.
- (f) *Meetings.* The meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. All meetings of the board shall be open to the public.
- (g) *Administering oaths; witness subpoenas.* The chairperson, or in his absence the acting chairperson, may administer oaths and compel the attendance of witnesses by subpoena.
- (h) *Minutes.* The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the town clerk and shall be a public record.
- (i) *Powers and duties.* The board of adjustment shall have the following duties and powers:
  - (1) *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator, or other administrative official, in the enforcement of this chapter.
  - (2) *Special exceptions.* To hear and decide special exceptions from the terms of this chapter upon which the board is required to act on under this chapter.
  - (3) *Variances.* To authorize upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the board of adjustment that:
    - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
    - b. The application of this chapter to this particular piece of property would create an unnecessary hardship;
    - c. Such conditions are peculiar to the particular piece of property involved; and
    - d. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this chapter; provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this chapter.
  - (4) *Uses not provided for.* When in any district established under this chapter a use is neither specifically permitted or denied and an application is made by a property owner to the zoning administrator for such use, the zoning administrator shall refer the application to the board of adjustment which shall have the authority to permit the use or deny the use. The use may be permitted if it is similar to and compatible with uses in the district and in no way is in conflict with the general purpose and intent of this chapter.

(Ord. No. 119, art. X, § 10.2, 4-16-1991)

Sec. 38-243. - Hearing procedure.

A request for a hearing before the board of adjustment for an administrative review, special exception or a variance shall observe the following procedures:

- (1) A completed application form must be filed with the zoning administrator who shall convey it to the chairman of the board of adjustment.
- (2) An application shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the zoning administrator. Such site plan shall include, as a minimum, the following: lot dimensions with property line monuments located thereon; location and size of existing and proposed structures, yard dimensions and the proposed use of such structures; easements (private and public), watercourses, and if existing or proposed, fences, street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application.
- (3) The board of adjustment shall hear the appeal within 30 days after the date of an application. Public notice of the hearings shall be given by:
  - a. Posting the appeal in four conspicuous places within the municipality together with a notice stating the time and place the appeal is to be considered by the board, and at least 15 days prior to the date of the hearing; and
  - b. Sending notices by registered mail to all adjacent property owners on the same side of the street, across the street, and to the rear of the affected property.
- (4) The board of adjustment shall render a decision on any appeal or other matter before it within 45 days from the date of the public hearing on it.
- (5) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the board of adjustment after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record upon notice to the official from whom the appeal is taken and for due cause shown.
- (6) In exercising the powers granted the board of adjustment, the board may, in conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or may modify the order, requirements, decisions or determination of the zoning administrator and may issue or direct the issuance of a zoning compliance permit.

(Ord. No. 119, art. X, §§ 10.3, 10.31—10.36, 4-16-1991)

Sec. 38-244. - Appeals.

Any party aggrieved by any final judgment or decision of the board of adjustment may, within 15 days of the final judgment or decision, appeal to the circuit court or court of like jurisdiction, by filing with the board a written notice of appeal specifying the judgement or decision from which appeal is taken. In case of such appeal, the board shall cause a transcript of the proceedings in the cause to be certified to the court to which the appeal is taken and the cause in such court shall be tried de novo.

(Ord. No. 119, art. X, § 10.37, 4-16-1991)

Sec. 38-245. - Limitations on resubmitting and withdrawing appeals.

A property owner, or his appointed agent, shall not initiate action for a hearing before the board of adjustment relating to the same parcel of land more often than once every 12 months for the same variance or special exception. Any petition for a hearing before the board may be withdrawn prior to action thereon by the board at the discretion of the person initiating such a request upon written notice to the secretary of the board.

(Ord. No. 119, art. X, § 10.38, 4-16-1991)