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Article I
General

A. Title
B. Purpose and Authority
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1. **Establishment of Districts**
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A. Title

This ordinance shall be known and may be cited as the "Zoning Ordinance" for the City of Fairhope, Alabama.

B. Purpose and Authority

1. Authority

This ordinance, and all subsequent amendments, is adopted pursuant to the authority granted by Section 11-52-1 et seq. Code of Alabama, 1975 (as amended).

2. Purpose

This ordinance is adopted for the following purposes, all in accordance with the Comprehensive Plan of the City of Fairhope, Alabama:

a. to lessen congestion in the streets;
b. to secure safety from fire, panic, and other dangers;
c. to promote health and general welfare;
d. to provide adequate light and air;
e. to prevent overcrowding of land;
f. to avoid undue concentration of land; and,
g. to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

C. Applicability

1. Establishment of Districts

The following districts are established to maintain the character of the districts and their suitability for particular uses, and to conserve the value of buildings and encourage the most appropriate use of land throughout the municipality.

- R-A - Residential/Agriculture District
- R-1 - Low Density Single-Family Residential District
- R-1(a) - Low Density Single-Family Residential District
- R-1(b) - Low Density Single-Family Residential District
- R-1(c) - Low Density Single-Family Residential District
- R-2 - Medium Density Single-Family Residential District
- R-3 - High Density Single-Family Residential District
- R-3 PGH - High Density Single-Family Patio Garden Home Residential District
- R-3 TH - High Density Single-Family Townhouse Residential District
- R-4 - Low density Multi-Family Residential District
- R-5 - High Density Dwelling Residential District
- R-6 - Manufactured Home District
- B-1 - Local Shopping District
- B-2 - General Business District
- B-3a - Tourist Resort Lodging District
- B-3b - Tourist Resort Commercial Service District
- B-4 - Business and Professional District
- M-1 - Light Industrial District
- M-2 - General Industrial District
- CBD - Central Business District Overlay
- AO - Airport Overlay
- P-1 - Parking District
- FH-1 - Flood Hazard District
- PUD – Planned Unit Development
- VRM – Village Residential Mix
- NVC – Neighborhood Village Center
- CVC – Community Village Center

2. Application of Regulations

a. *Use:* No building or land shall be used or occupied and no building or part there of shall be erected, constructed, moved, or altered except in conformity with the regulations for the district in which it is or is to be located.
b. *Structures:* No structure shall be erected, constructed or altered so as to exceed the height limit or dimensional standards specified in the regulations herein for the district in which it is located.
c. *Lots:* No lot shall be reduced in size below the minimum requirement for lot width or depth, front, side, or rear yard, inner or outer courts, lot area per family or other requirements of this ordinance. This section shall not apply when a portion of a lot is acquired for public use.

3. Interpretation of District Boundaries

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

a. Unless otherwise indicated, the district boundaries shall be construed to follow property lines, land lot lines, center lines of public rights-of-way, shorelines of bodies of water, or civil boundaries.
b. Where district boundaries are approximately parallel to the centerlines of rights-of-way or of shorelines of bodies of water, district boundaries shall be construed as being parallel to these lines at the distance

indicated on the official zoning map. If no distance is given, the dimensions shall be determined by the use of the scale shown on the official zoning map.

c. Where a public right-of-way is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to the vacated or abandoned right-of-way.

d. The final determination of a district boundary shall be made according to the legal description contained in the adopted ordinance. If the description is incomplete, the city council shall determine the legislative intent and may, if necessary, adopt an amending ordinance to correct the district boundary.

4. Adoption, Identification and Changes to the Official Zoning Map

The current zoning map of the City, which is maintained by the Director of Planning and Building or his / her designee under the direction of the Mayor and kept on file at City Hall, shall continue to be the official zoning map of the City and nothing contained herein shall be construed to alter or amend the current zoning map. A copy of said map is attached hereto as Exhibit "A". Future changes in district boundaries shall be made on the zoning map for convince and reference. Map amendments to the zoning ordinance shall be made in accordance with the procedures established in Article II hereof. This official ordinance approving the map change shall be recorded in Appendix A of the Zoning Ordinance. In the event of a conflict between the map and this zoning ordinance or any amendment hereto, the legal description from the particular ordinance shall control.

5. Text Amendments

Text amendments to the Zoning Ordinance shall be made according to the procedures established in Article II. Ordinances amending the text of the Zoning Ordinance shall be recorded in Appendix C of this ordinance.

6. Newly Annexed Land

Property annexed into the City shall be zoned according to the following:

a. Property shall have any zoning designation given to it by the City Council according to the procedures specified in this ordinance.

b. Where no designation is given by the City Council and the property is otherwise un-zoned, it shall be classified as R1 – Low Density Single Family Residential District.

c. Property annexed into the City that is zoned by Baldwin County shall be classified as the most similar district at the time of application, unless a different classification is given by the City Council. The Director of Planning and Building shall make the determination of the most similar district. Similar classifications do not require due process and public notice procedures before the Planning Commission or the City Council. These requests are considered directly by the City Council at the time of annexation consideration. If the applicant requests a different zoning district then the case shall follow the annexation contingent on zoning procedures.

7. Conflicts with Other Laws

Whenever the requirements of this ordinance conflict with the requirements of any other lawfully adopted statutes, rules, regulations, or ordinances, the most restrictive, or that imposing higher standards, shall govern.

8. Severability and Validity

Each phrase, sentence, paragraph, section or other provision of this ordinance is severable from all other such phrases, sentences, paragraphs, sections and provisions. Should any phrase, sentence, paragraph, section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect any other portion or provision of this ordinance.

Article II
Procedures

A. Review Bodies
- **1. City Council**
- **2. Planning Commission**
- **3. Director of Planning and Building**
- **4. Board of Adjustments**

B. Applications

C. Review Procedures
- **1. Zoning Amendments**
- **2. Site Plan**
- **3. Board of Adjustment Application**
- **4. Permits and Certificates**

A. Review Bodies

1. City Council

The City Council shall exercise all final legislative authority over zoning matters as provided in this ordinance.

2. Planning Commission

a. *Establishment and Authority:* The Planning Commission of the City of Fairhope is established according to Title 11, Chapter 52 of the Code of Alabama (1975), as amended, and Article 17 of the City Code. The Planning Commission shall exercise the authority granted by the Code of Alabama, the City Code, and the Zoning Ordinance.

b. *Memberships:*
(1) The commission shall consist of nine members having the following qualifications:
- A member of the city council, to be selected by it;
- The mayor;
- An administrative official of the city, appointed by the mayor;
- Six members, appointed by the mayor, who shall reside in or have as their principal place of employment, the City of Fairhope, Alabama or its planning jurisdiction who hold no other public office in the City of Fairhope.
- This subsection is intended to comply with the terms of Chapter 52 of Title 11 of the Code of Alabama (1975), as amended, with respect to the members of the Planning Commission. To the extent those terms are altered, amended, replaced or otherwise changed, this subsection shall be construed so as to apply with such altered, amended, replaced or changed terms.

(2) The mayor, the city councilperson, and the city administrative official shall be ex-officio members of the commission having full privilege of participation in the business of the commission, including voting privileges. Their terms shall correspond to their respective official tenures except that the terms of the administrative official selected by mayor shall terminate with the term of the selecting mayor.
(3) All members shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties. All members shall be provided with relevant information outlining conflict of interest laws.
(4) The City Director of Planning and Building shall serve in an advisory capacity to the commission and shall attend all meetings, unless excused by the commission, but shall not vote.
(5) The terms of the six members citizen employees shall be on accordance with the applicable law; provided; however, that nothing in this zoning ordinance shall be construed so as to shorten the term of any current citizen appointee.
(6) The vacancy on the commission shall be filled for the un-expired term by the mayor in the case of members appointed by the mayor or by the council in the case of a member selected by the council. Members appointed by the mayor may be removed by the mayor and the member appointed by the council may be removed by the council for inefficiency, neglect of duty or malfeasance in office after a public hearing held pursuant to written charges.

c. *Rules of Procedure:* The Planning Commission shall establish bylaws under which to operate as provided by law.

d. *Duties and Powers Under Zoning Ordinance:* The Planning Commission shall have the following powers and duties under the Zoning Ordinance:
(1) To review and make recommendations on zoning amendments for compliance with the Comprehensive Plan.
(2) To review and approve site plans consistent with the standards in this ordinance and the existing zoning for the property.
(3) To propose zoning amendments to the City Council;
(4) To advise the City Council on implementation of the Comprehensive Plan, and;
(5) Other duties as authorized by the Code of Alabama (1975), as amended, and the City Code.

3. Director of Planning and Building

The Director of Planning and Building shall be the municipal building inspector whose duties shall be as follows:
a. The Director of Planning and Building is authorized and empowered on behalf and in the name of the council to administer and enforce the provisions of this ordinance including:
(1) Receive applications;
(2) Inspect premises, and issue certificates of zoning compliance, building permits and certificates of occupancy for uses and structures which are in conformance with the provisions of this ordinance;
(3) Interpret the meaning of the ordinance in the course of enforcement;
(4) Propose zoning amendments as provided in this ordinance; and,
(5) Advise the Planning Commission and City Council on implementation of the Comprehensive Plan.
b. The Director of Planning and Building shall keep records of all permits, and certificates of occupancy issued, maps, plats and other documents with notations of all special conditions involved. He shall file and safely keep copies of all sketches and plans submitted, and the same shall form a part of the records of his office and shall be public record.

4. Board of Adjustments

a. *Establishment and Authority:* The Board of Adjustment of the City of Fairhope, Alabama is hereby established according to the Code of Alabama (1975), as amended.

b. *Membership:*
   (1) The Board shall consist of five members, appointed by the City Council of the City of Fairhope, Alabama for overlapping terms of three years.
   (2) The initial appointment of the Board shall be as follows: two members for one year; two members for two years; and one member for three years.
   (3) Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall be removable for cause by the council upon written charges and after public hearing.
   (4) No member shall hold any other public office or position.
   (5) Every member shall reside in the city limits of the City of Fairhope, Alabama.

c. *Rules of Procedure:* The Board shall observe the following procedures:
   (1) The board shall adopt rules in accordance with the provisions of this ordinance for the conduct of its affairs.
   (2) The board shall elect one of its members as chairman, who shall serve for one year or until he is reelected or his successor is elected.
   (3) The board shall appoint a secretary.
   (4) The meetings of the board shall be held at the call of the chairman and at other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena.
   (5) All meetings of the board shall be open to the public.
   (6) The board shall keep minutes of its proceedings, showing the voice vote of each member upon each question, or indicating absence or failure to vote, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the clerk and shall be a public record.

d. *Duties and Powers:* The Board 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 Director of Planning and Building, or other administrative official, in the enforcement of this ordinance.
   (2) *Special Exceptions* - To hear and decide special exceptions to the terms of this ordinance upon which the board is required to pass under this ordinance.
   (3) *Variances* - To authorize upon appeal in specific cases variance from the terms of this ordinance not contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done. Prior to granting a variance, the Board shall find that:
      (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
      (b) The application of this ordinance to the particular piece of property would create an unnecessary hardship;
      (c) Such conditions are peculiar to the particular piece of property involved; and,
      (d) Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.
   (4) *Uses Not Provided For:* Whenever, in any district established under this ordinance, a use is neither specifically permitted or denied and an application is made by a property owner to the Director of Planning and Building for use, the Director 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 permitted uses in the district and in no way is in conflict with the general purpose and intent of this ordinance.

B. Applications

All applications submitted under this ordinance shall be made on forms provided by the Director of Planning and Building. All applications shall be made according to the published Planning Commission schedule. In addition to the minimum information specified on the application forms, applicants may be asked, in the Director's, Planning Commission's, or City Council's discretion, to submit additional information, data, or reports, as is reasonably necessary for the review bodies to make an informed decision on compliance of the application with this ordinance.

C. Review Procedures

Table 2-1: Procedures

Application Type / Review Body	**Map Amendment (Rezoning)***	**Zoning Text Amendment**	**Site Plan Approval**	**Administrative Appeal**	**Special Exception**	**Variance**	**Building Permit**	**Certificate of Occupancy/Zoning Compliance**
Director of Planning and Building	A RR	A RR	A RR	A RR	A RR	A RR	A/RR D	A/RR D
Planning Commission	H RR	H RR	RR					
City Council	H D	H D	D					
Board of Adjustment				H D	H D	H D		

A = Determination of complete application subject to Section II.B.
RR = Review and/or recommendation
H = Public hearing subject to notice and procedure requirements of this Article.
D = Final Decision
* ***See Article VI, Section D. for special expedited review procedures for the Village Zoning Districts.***

1. Zoning Amendments

a. *Initiation* –
(1) Zoning Text Amendment - An amendment to the text of the zoning ordinance shall only be initiated by the Director of Planning and Building, members of the Planning Commission, or members of the City Council. Other individuals requesting an amendment to the text of the zoning ordinance must get one of these authorized individuals to sponsor the proposed amendment.
(2) Zoning Map Amendment - A zoning map amendment to rezone property may be initiated by a majority of the City Council, a majority of the Planning Commission, or the property owner.

b. *Application* - An application for a zoning amendment shall be submitted on the application form provided by the Director of Planning and Building. The application shall include all information requested on the application form. The Director of Planning and Building shall determine if the application is complete. If

the application is not complete, the Director shall notify the applicant in writing indicating necessary steps to cure the incomplete application.

c. *Notice –*
(1) Notice of Planning Commission Hearing
(a) Published Notice – Notice shall be published once, at least 15 days prior to the hearing, in a newspaper of general circulation. The notice shall include the following:
(i) A provision that the application will be considered by the Planning Commission;
(ii) A copy of the proposed amendment or application is available at City Hall;
(iii) The time and place that the application will be considered by the Planning Commission;
(iv) All persons shall have an opportunity to be heard in opposition to or in favor of the amendment;
(v) In the case of a zoning map amendment, a general description of any property, including any common name by which the property is known.
(b) Mailed Notice –The applicant shall furnish the City the names and mailing addresses of all persons owning property within 300 feet of any specific property that is the subject of the application. Names and addresses shall be from the latest records of the county revenue office and accuracy of the list shall be the applicant's responsibility. Where land within 300 feet involves leasehold property, the names and addresses of the landowner and the leasehold improvements shall be provided to the City.
(c) Posted Notice - The applicant shall post on the property being considered for a zoning change a sign that gives public notice. This sign shall be posted adjacent to a publicly dedicated street. The sign shall be furnished by the City at the time of application. The sign shall be posted no later than 15 days before the Planning Commission meetings and shall remain posted until after final action by the City Council. The applicant shall remove the sign from the property and return it to the City within 2 days of final action by the City Council. It is the sole responsibility of the applicant to post the sign in accordance with these regulations. Failure to post this sign may result in nullification of the zoning change decision and application.
(d) Upon determination of a complete application, notice of the application will be published and/or mailed. The applicant shall be responsible for all costs of notification and filing fees.
(2) Notice of City Council Hearing - Prior to the City Council hearing, two notices shall occur in a newspaper of general circulation in the City, or where no such paper exists, in four conspicuous places in the City. Each notice shall be at least 15 days prior to the date when the City Council will consider the application.
(a) Initial Publication - The initial publication shall be according to the following:
(i) The text of the proposed amendment in full or the application;
(ii) The time and place that the application will be considered by the City Council;
(iii) Notice that all persons shall have an opportunity to be heard in opposition to or in favor of the application.
(b) Second Publication – The second publication shall be according to the following:
(i) A synopsis of the proposed application;
(ii) The date and name of the newspaper or locations of the first publication;
(iii) The time and place that the application will be considered by the review body;
(iv) Notice that all persons shall have an opportunity to be heard in opposition to or in favor of the application.
(3) Compliance with Law- the foregoing requirements are intended with applicable law relating to notice. To the extent that such requirements do not so comply with applicable law or in the event any applicable law is hereafter altered, amended or otherwise modified, this section C.1.c. shall be construed so as to comply with such altered, amended or modified law.

d. *Review* -The proposed amendment shall be reviewed according to the following:
(1) A complete application shall be reviewed by the Director of Planning and Building.
(2) The application shall be submitted to the Planning Commission at the next available meeting. The Planning Commission shall consider the application and take one of the following actions:
(a) Recommend approval of the application to the City Council;
(b) Recommend approval of the application to the City Council, conditioned on specific revisions;

(c) Recommend denial of the application to the City Council; or
(d) Continue discussion of the application for further study. An application shall only be continued one time without the applicant's consent before the Planning Commission shall pass it along to the City Council for action. Any continuance shall be for a time reasonably necessary to completely and adequately address the issue of further study. An applicant may agree to more continuances.

(3) The application shall be submitted to the City Council, only with the recommendation of the Planning Commission. The City Council shall consider the application at a public hearing and take one of the following actions:
(a) Approve the application;
(b) Approve the application, conditioned on specific revisions;
(c) Deny the application;
(d) Continue discussion of the application for further study. An application shall only be continued one time without the applicant's consent before the City Council shall take one of the above actions. Any continuance shall be for a time reasonably necessary to completely and adequately address the issue of further study. An applicant may agree to more continuances; or
(e) Remand the proposed amendment to the Director of Planning and Building or to the Planning Commission for further study and discussion. An application may be remanded only once without the applicant's consent before the City Council shall take one of the above actions. An applicant may agree to more remands.

e. *Criteria* – The application shall be reviewed based on the following criteria:
(1) Compliance with the Comprehensive Plan;
(2) Compliance with the standards, goals, and intent of this ordinance;
(3) The character of the surrounding property, including any pending development activity;
(4) Adequacy of public infrastructure to support the proposed development;
(5) Impacts on natural resources, including existing conditions and ongoing post-development conditions;
(6) Compliance with other laws and regulations of the City;
(7) Compliance with other applicable laws and regulations of other jurisdictions;
(8) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values;and,
(9) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.

f. *Limitation on Re-submittal* – No application for a zoning map amendment shall be considered within 365 days from a final decision on a previous application for the same or similar parcel of land. An application may be withdrawn without prejudice prior the public hearing being opened by the Planning Commission. A request to withdraw an application shall be made to the Director in writing.

g. *Nullification for Misrepresentation* – Any rezoning decision that is based in any part on testimony, plans, studies or other support that is later found to have been a material misrepresentation may be summarily nullified. Summary nullification shall require evidence of the misrepresentation at a formal Council meeting and the concurring vote of 4 members of the City Council. It shall not require the notice and hearing necessary for a formal zoning amendment because the initial Council action will be determined null and void due to the material misrepresentation.

2. Site Plan

a. *Initiation* – Review of (preliminary) site plans accompanying a zoning map amendment shall be reviewed according to the zoning amendment procedures. (Final) site plans that do not accompany a zoning map amendment shall be reviewed according to this section. Site plan approval is required when any commercial building(s) located in a business-zoning district (industrial zoning excluded) or in the CBD overlay:
(1) Has a gross floor area of 10,000 square feet or greater; or,
(2) More than 30% of the lot (excluding the building) is impervious; or
(3) All applications for zoning map amendments to rezone property to any of the Village Districts in Article VI. However, applicants for rezoning to the village districts may elect to use the special review

procedures in Article VI, Section D. for review of the rezoning application and site plans associated with a village development.

(4) A mandatory site plan review application for all mixed-use projects electing to build to 35 feet height with 33% residential, regardless of whether or not it triggers site plan review approval, must make application to the Planning and Zoning Commission for approval.

b. *Application* –An application for site plan review shall be submitted on the application form provided by the Director of Planning and Building. The application shall include all information requested on the application form. Preliminary review with the Director and the Planning Commission, prior to a formal application is encouraged. If the application is not complete, the Director shall notify the applicant in writing indicating necessary steps to cure the incomplete application. The application shall be submitted with drawings showing the location of the site and all existing and proposed buildings with sufficient information to evaluate impacts on adjacent properties. Sheet size shall be large enough to document all physical features and shall be suitable for public record. The application does not require public notice nor public hearing.

c. *Review* – Site plan review shall occur according to the following:

(1) A complete application shall be reviewed by the Director of Planning and Building.

(2) Applications shall be submitted according to the published Planning Commission schedule. The Planning Commission shall consider the application and take one of the following actions:

(a) Approve the site plan;

(b) Approve the site plan, conditioned on specific revisions;

(c) Deny the site plan; or

(d) Continue discussion of the application for further study. An application shall only be continued one time without the applicant's consent before the Planning Commission shall take one of the above actions. An applicant may agree to more continuances.

(3) The City Council shall consider the site plan only after review and recommendation from the Planning Commission. The City Council shall have the final authority on site plan approval.

d. *Criteria* – The application shall be reviewed based on the following criteria:

(1) Compliance with the Comprehensive Plan;

(2) Compliance with any other approved planning documents;

(3) Compliance with the standards, goals, and intent of this ordinance and applicable zoning districts;

(4) Compliance with other laws and regulations of the City;

(5) Compliance with other applicable laws and regulations of other jurisdictions;

(6) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values;

(7) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values;

(8) Overall benefit to the community;

(9) Compliance with sound planning principles;

(10) Compliance with the terms and conditions of any zoning approval;

(11) Any other matter relating to the health, safety, and welfare of the community;

(12) Property boundaries with dimensions and setback lines;

(13) Location of proposed buildings and structures indicating sizes in square feet;

(14) Data to show percentage of lot covered with existing and proposed buildings;

(15) Elevations indicating exterior materials;

(16) The locations, intensity, and height of exterior lights;

(17) The locations of mechanical equipment;

(18) Outside storage and/or display;

(19) Drive-up window locations (must be away from residential uses/districts and not in front of building);

(20) Curb-cut detail and location(s);

(21) Parking, loading, and maneuvering areas;

(22) Landscaping plan in accordance with the City Landscape Ordinance;

(23) Location, materials, and elevation of any and all fences and/or walls;

(24) Dumpster location and screening; and
(25) Location and size of all signage.

e. *Effect and Limitation on Approval* – Site plan approval stands for 365 days from the approval date. If the building permit has not been issued within this time, the site plan approval shall be null and void. The Council may consider a request for extension of this time up to 180 additional days for good cause. The site plan may be amended, but amendments shall be subject to the same procedures as a new site plan approval.

f. *Modifications* - Modifications in substantial conformance with an approved site plan may be approved by the Director of Planning and Building if they meet the following conditions:
(1) The modification addresses actual site conditions that were not anticipated in the reviewed site plan;
(2) The modification meets the intent of the site plan standards in an equivalent or improved manner than the original site plan; and
(3) The modification results in no greater impact on adjacent property than the approved site plan.

g. *Nullification for Misrepresentation* – Any site plan decision that is based in any part on testimony, plans, studies or other support that is later found to have been a material misrepresentation may be summarily nullified. Summary nullification shall require evidence of the misrepresentation at a formal Council meeting and the concurring vote of 4 members of the City Council. It shall not require a formal site plan review process because the initial Council action will be determined null and void due to the material misrepresentation.

3. Board of Adjustment Application

a. *Initiation* - Applications to the board of adjustment may be made by:
(1) Any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer;
(2) Any person requesting a variance from the standards of this ordinance; or
(3) Any person requesting a special exception as provided under this ordinance.

b. *Application* - An application for a Board of Adjustment review shall be submitted on the application form provided by the Director of Planning and Building. The application shall include all information requested on the application form, including grounds for the request for relief. Applications shall be made according to the published Zoning Board of Adjustment schedule. If the application is not complete, the Director shall notify the applicant in writing indicating necessary steps to cure the incomplete application.

c. *Notice* –
(1) Published Notice – At least 15 days in advance of the hearing, notice shall be published in a newspaper of general circulation. The notice shall include the following:
(a) A provision that the application will be considered by the Board;
(b) A copy of the application is available at City Hall;
(c) The time and place that the application will be considered by the Board;
(d) All persons shall have an opportunity to be heard in opposition to or in favor of the amendment;
(e) A general description of subject property, including any common name by which the property is known.
(2) Mailed Notice –The applicant shall furnish the City the names and mailing addresses of all persons owning property within 300 feet of the property that is the subject of the application. Names and addresses shall be from the latest records of the county revenue office and accuracy of the list shall be the applicant's responsibility. Where land within 300 feet involves leasehold property, the names and addresses of the landowner and the leasehold improvements shall be provided to the City.
(3) Upon determination of a complete application, notice of the application will be published and/or mailed. The applicant shall be responsible for all costs of notification and filing fees.
(4) Compliance with Law- The foregoing requirements are intended with applicable law relating to notice. To the extent that such requirements do not so comply with applicable law or in the event any

applicable law is hereafter altered, amended or otherwise modified, this section C.3.c. shall be construed so as to comply with such altered, amended or modified law.

d. *Review* - Application review shall occur according to the following:
   (1) A complete application shall be reviewed by the Director of Planning and Building. The Director shall offer a written report on the merits of the application to the Zoning Board of Adjustments.
   (2) The application shall be submitted to the Board at the scheduled public hearing, with the Director's report. The Board shall consider the application and take one of the following actions:
      (a) Grant the requested relief;
      (b) Grant the requested relief with specific conditions;
      (c) Deny the requested relief; or
      (d) Continue discussion of the application for further study. An application shall only be continued one time without the applicant's consent before the Board can take one of the above actions. An applicant may agree to more continuances.

e. *Criteria* –
   (1) An application for a variance shall be granted only on the concurring vote of four Board members finding 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 the ordinance to this particular piece of property would create an unnecessary hardship. Personal financial hardship is not a justification for a variance.
      (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 and impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.
   (2) Any other application to the Board shall be reviewed under the following criteria and relief granted only upon the concurring vote of four Board members:
      (a) Compliance with the Comprehensive Plan;
      (b) Compliance with any other approved planning document;
      (c) Compliance with the standards, goals, and intent of this ordinance;
      (d) The character of the surrounding property, including any pending development activity;
      (e) Adequacy of public infrastructure to support the proposed development;
      (f) Impacts on natural resources, including existing conditions and ongoing post-development conditions;
      (g) Compliance with other laws and regulations of the City;
      (h) Compliance with other applicable laws and regulations of other jurisdictions;
      (i) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values;
      (j) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.
      (k) Overall benefit to the community;
      (l) Compliance with sound planning principles;
      (m) Compliance with the terms and conditions of any zoning approval; and
      (n) Any other matter relating to the health, safety, and welfare of the community.

f. *Effect of Appeal* – An appeal to the Board stays all legal proceedings in furtherance of the application appealed from unless the Director certifies to the Board that a stay would cause imminent peril to life and property. In such cases, proceedings will not be stayed, unless by operation of a court of competent jurisdiction. If an appeal fails for any reason, the stay shall be lifted.

g. *Effect of Variance* - Any variance granted according to this section and which is not challenged on appeal shall run with the land provided that:
   (1) The variance is acted upon according to the application and subject to any conditions of approval within 365 days of the granting of the variance or final decision of appeal, whichever is later; and
   (2) The variance is recorded with the Judge of Probate.

h. *Limitation on Re-submission* – An application for the same parcel of land shall not be submitted within 365 days of final decision of the Board. Any application may be withdrawn without prejudice prior to the opening of the hearing by the Board. A request to withdraw an application shall be submitted to the Director in writing.

i. *Appeal* – Any party aggrieved by any final judgment or decision of the Board may appeal to the circuit court. Appeal to the circuit court must occur within 15 days of the Board's decision. Notice of the appeal shall be filed with the Board specifying the judgment or decision being appealed. The foregoing requirement relating to the time in which a party must appeal a decision of the board is intended to comply with applicable law. To the extent that applicable law is hereafter altered, amended or otherwise modified this section c.3.i shall be construed to as to comply with such altered, amended or modified law.

4. Permits and Certificates

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

a. *Commencement of Building:* It shall be unlawful to commence the excavation or construction of any building or other structure, including accessory structures, or to store building materials or erect temporary field offices, or to commence the moving, alterations, or repair of any structure, including accessory structures, until the building inspector of the municipality has issued for such work a building permit including a statement that the plans, specifications and intended use of such structure in all respects conforms with the provisions of this ordinance. Application for the building permit shall be made to the building inspector on forms provided for that purpose and shall be accompanied by payment of the required fee.

b. *Approval of Plans and Issuance of Building Permit:* It shall be unlawful for the municipal building inspector to approve any plans or issue a building permit for any excavation or construction until he has inspected such plans in detail and found them in conformity with this ordinance. The municipal building inspector shall require that every application for a building permit for excavation, construction, use of land, moving or alteration be accompanied by a dimensioned plan or plat showing sufficient detail to enable the municipal building inspector to ascertain whether the proposed excavation, construction, use of land, moving or alteration is in conformance with this ordinance. At a minimum the plan or plat shall show:
(1) The actual shape, proportion and dimensions of the lot to be built upon;
(2) The shape, size and location of all buildings or other structures to be erected, altered, or moved and any building or other structures already on the lot;
(3) The existing and intended use of all such buildings or other structures; and
(4) The adequacy of provisions for control of surface drainage.

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

c. *Permits Requiring Planning Commission Review:* Any permit or certificate meeting the standards of Section C.2.a. of this Article shall first require review and approval of a site plan by the Planning Commission prior to issuance of the permit or certificate.

d. *Expiration of Building Permit:* A building permit shall not be transferable and shall be issued only to the applicant. It shall expire if work is not begun within 180 days from the date of issuance and the work for the entire project has not been completed within 365 days after issuance of the building permit. Request for a 90-day extension may be considered upon the applicant's request made prior to the permit expiration.

e. *Modification:* It shall be unlawful for the owner, after he has obtained approval of design plans, to change or substantially modify plans, either during construction or after completion without specific written approval of the building inspector.

f. *Certificate of Zoning Compliance and Occupancy:* No land or building or other structure erected, moved or altered in its use shall be used until the building inspector of the municipality shall have issued a Certificate of Occupancy and the Director of Planning and Building shall have issued a Certificate of Zoning Compliance stating that such land or structure is found to be in conformity with the provisions of this ordinance. The Director shall perform the final inspection within reasonable time after receiving a request, and issue either a Certificate of Zoning Compliance or a denial in writing. A denial shall state the reasons for denial. Any person or firm who occupies or causes to be occupied any premises without a Certificate of Occupancy and/or a Certificate of Zoning Compliance shall be subject to citation for violation of this ordinance and shall be subject to the all remedies and penalties hereof.

Article III
Zoning Districts

A. Purpose and Intent
1. **RA Residential/Agriculture District**
2. **R-1 Low Density Single-Family Residential District**
   - **R-1(a)**
   - **R-1(b)**
   - **R-1(c)**
3. **R-2 Medium Density Single-Family Residential District**
4. **R-3 High Density Single-Family Residential District**
5. **R-3 PGH High Density Single-Family Patio/Garden Home Residential District**
6. **R-3 TH High Density Single-Family Townhouse Residential District**
7. **R-4 Low Density Multi-Family Residential District**
8. **R-5 High Density Dwelling Residential District**
9. **R-6 Mobile Home Park District**
10. **B-1 Local Shopping District**
11. **B-2 General Business District**
12. **B-3a Tourist Resort Lodging District**
13. **B-3b Tourist Resort Commercial Service District**
14. **B-4 Business and Professional District**
15. **M-1 Light Industrial District**
16. **M-2 General Industrial District**
17. **PUD Planned Unit Development**
18. **CBD Overlay**
19. **Airport Overlay**
20. **Flood Hazard District**
21. **Parking District**
22. **VRM – Village Residential Mix**
23. **NVC – Neighborhood Village Center**
24. **CVC – Community Village Center**

B. Allowed Uses
1. **Use Table**
2. **Accessory Uses**
3. **Temporary Uses**

C. Dimension Standards
1. **Lots and Principle Structure – Dimension Table**
2. **Residential Accessory Structures – Dimension Table**
3. **Yards**
4. **Free-standing Commercial Structures**

D. Special Conditions for Uses

A. Purpose and Intent

The following zoning districts, established pursuant to Section 1.C.1 of Article I., are for the purpose of promoting the health, safety, morals and general welfare, and for the additional purposes and intent listed in Articles III, IV, V, and VI of the Zoning Ordinance, all in accordance with the Comprehensive Plan.

1. *R-A Residential/Agriculture District:* This district is intended as a rural environment providing primarily agriculture and agriculture-related uses. Residential uses are allowed at overall low density to support rural and agriculture lifestyles proximate to the city. This district may also be used as a "holding zone" for future development in accordance with the comprehensive plan, when future conditions allow for efficient expansion of urban services.

2. *R-1 Low Density Single-Family Residential District:* This district is intended to provide choices of low-density suburban residential environment consisting of single-family homes on large parcels of land. It is sub-classified into four categories (R-1, R-1a, R-1b, and R-1c) based on lot sizes.

3. *R-2 Medium Density Single-Family Residential District:* This district is intended as a medium density single-family urban residential district, with lots of moderate size.

4. *R-3 High Density Single-Family Residential District:* This district is intended as a high-density single-family urban residential district with lots of relatively small size as compared to the preceding single-family residential districts.

5. *R-3 PGH High Density Single-Family Patio/Garden Home Residential District:* This district is intended to provide areas that will be limited to single-family development of a patio/garden home nature where only one (1) side yard is required. The regulations of the R-3 PGH District shall apply to property zoned R-3 PGH as of July 10, 2000. Development of patio homes after this date shall use the PUD zoning districts.

6. *R-3 TH High Density Single-Family Townhouse Residential District:* This district is intended to provide areas exclusively for the development of town houses on a high-density basis where no side yards are required.

7. *R-4 Low Density Multi-Family Residential District:* This district is intended to provide a medium high density single-family structure and two to four family units to a building structure.

8. *R-5 High Density Dwelling Residential District:* This district is intended to provide opportunity, within a general protected residential environment, for the highest residential district density considered as appropriate to the environmental character of the city. Within this district it is also considered suitable to include other uses of a type considered not incompatible with a good high-density living environment and providing for needed community services.

9. *R-6 Mobile Home Park District:* This district is intended to provide space at appropriate locations consistent with community objectives for the establishment of mobile home parks which provide for the establishment of permanent mobile homes for the amenities conducive to an adequate living environment.

10. *B-1 Local Shopping District:* This district is intended to provide for limited retail convenience goods and personal service establishments in residential neighborhoods and to encourage the concentration of these uses in one (1) location for each residential neighborhood rather than in scattered sites occupied by individual shops throughout a neighborhood. Restaurants in the B-1 zoning district may be permitted only on appeal to the Board of Adjustments and may be subject to special conditions. Drive thru restaurants shall not be permitted in the B-1 zoning district.

11. *B-2 General Business District:* This district is intended to provide opportunity for activities causing noise and heavy traffic, not considered compatible in the more restrictive business district. These uses also serve a regional as well as a local market and require location in proximity to major transportation routes. Recreational vehicle parks, very light production and processing activities are included.

12. *B-3a Tourist Resort Lodging District:* This district is intended to provide commercial and resort areas at appropriate locations to serve the needs of tourists visiting the Bay Beaches and related recreational and cultural attractions. Commercial activities restricted to restaurants, which are attached to or are an integral part of the complex are permitted.

13. *B-3b Tourist Resort Commercial Service District:* This district is intended for a range of commercial and resort residential uses at appropriate locations to serve the needs of tourists.

14. *B-4 Business and Professional District:* This district is intended to provide opportunity for business establishments of a professional nature and is restricted to offices and businesses, which provide specific corporate functions or professional services to the general public.

15. *M-1 Light Industrial District:* This district is intended to provide a suitable protected environment for manufacturing, research and wholesale establishments which are clean, quiet and free of hazardous or objectionable emissions, and generate little industrial traffic. Industrial parks should be encouraged. Locations should be in accordance with comprehensive plans.

16. *M-2 General Industrial District:* This district is intended to provide opportunity for the location of industrial, manufacturing, processing, warehousing, or research and testing operations that, due to employment of heavy equipment or machinery or to the nature of the materials and processes employed, require special location and development safeguards to prevent pollution of the environment by noise, vibration, odors or other factors, and may also require extensive sites for storage and parking, may require extensive community facilities or generate heavy motor traffic. Access to major transportation facilities is usually needed. Locations should be in accordance with the Comprehensive Plan and special review is required for some.

17. *PUD Planned Unit Development:* This district is intended to encourage innovative development that meets comprehensive plan goals and is tailored to the unique constraints and conditions of a particular site. This district allows flexibility in uses, designs, and building layouts as opposed to other zoning districts to better serve community needs. See Article V., Section A for more detailed standards regarding this district.

18. *CBD Overlay District:* This district is intended to preserve downtown Fairhope as the regional village center and as the focal point of the City, in accordance with the comprehensive plan. The district encourages infill development, including shopping, restaurant and entertainment, cultural and artistic institutions, offices, government functions, and residential uses, provided it creates a pedestrian oriented atmosphere and is consistent with the historic fabric of downtown.

19. *Airport Overlay District:* This district is intended to preserve the ongoing operation of the Fairhope Municipal Airport as an economic asset for the community by preventing land uses incompatible with the operations of a municipal airport.

20. *Flood Hazard District:* This district is intended to secure life and property from peril and damage of natural flood hazards, protect property values, and insure compliance with Federal flood insurance eligibility requirements.

21. *Parking District:* This district is intended for those situations were parking may be provided more efficiently and with less impact on goals for the overall surrounding areas by consolidating and sharing parking in one location.

22. *VRM Village Residential Mix:* This district is intended to create walkable neighborhoods that place a variety of residential types within close proximity to open space and village centers that meet the majority of needs for daily living. This district is developed to more directly implement the neighborhood component of the Comprehensive Plan. See Article VI, Section A for more detailed standards regarding this district.

23. *NVC Neighborhood Village Center:* This district is intended to create walkable commercial areas to support adjacent neighborhoods. This district is developed to more directly implement the Neighborhood Village Center component of the Comprehensive Plan. See Article VI, Section B. for more detailed standards regarding this district.

24. *CVC Community Village Center:* This district is intended to create a community center that serves a broad range of neighborhoods that may be automobile-oriented but still creates a walkable commercial center accessible by a variety of modes of transportation. This district is created to more directly implement the Community Village

Center component of the Comprehensive Plan. See Article VI, Section C. for more detailed standards regarding this district

B. Allowed Uses

1. Use Table – Table 3-1 indicates seven categories of uses: (1) residential; (2) civic; (3) office; (4) retail; (5) service; (6) manufacturing, and (7) rural. Within each category, specific uses are listed and indicated as either allowed, allowed subject to special conditions, or allowed by special exception.

See Table 3-1: Use Table - Zoning Districts and Specific Land Uses

Table 3-1: Use table

Uses Categories / Specific Uses (Zoning District)	R-A	R-1(a,b,c)	R-2	R-3 TH	R-3 P/GH	R-3	R-4	R-5	R-6	B-1	B-2	B-3a	B-3b	B-4	M-1	M-2	PUD	VRM	NVC	CVC
Dwelling																	Uses in the PUD District shall be specified based on a development plan according to the standards and procedures of this ordinance			
Single-family	●	●	●			●	●	●		●	●	●	●	●				●		
Two-family							●	●		●	●	●	●					●		
Townhouse				∋			∋	∋		∋	∋			∋				∋	●	●
Patio Home					∋													∋		
Multiple-family / Apartment							∋	●				○	○					∋	∋	∋
Manufactured Home									∋											
Mixed-use										●	●	●	●	●					●	●
Accessory Dwelling										∋	∋	∋	∋	∋				∋	∋	∋
Estate																		●		
Civic																				
Elementary School		●	●			●	●	●		●	●	●	●	●	●	●		●	●	●
Secondary School		●	●			●	●	●		●	●	●	●	●	●	●			●	●
Education Facility		●	●			●	●	●		●	●			●	●	●			●	●
Library		●	●			●	●	●		●	●	●	●	●	●	●		●	●	●
Place of Worship																		●	○	○
Cemetery	○	○	○			○	○	○		○	○	○			○	○			○	○
Hospital										○	○	○		○	○	○			○	○
Public Open Space	●	●	●			●	●	●		●	●	●		●	●	●		●	●	●
Common Open Space	●	●	●			●	●	●		●	●	●		●	●	●		●	●	●
Community Center or Club	○	○	○			○	○	○		○	○	○			○	○		○	○	○
Public Utility (??)	○	○	○			○	○	○		○	○	○			○	○		○	○	○
Office																				
General										●	●		●	●	●	●			●	●
Professional										●	●		●	●	●	●			●	●
Home Occupation	∋	∋	∋	∋	∋	∋	∋	∋	∋	∋	∋	∋	∋	∋				∋	∋	∋
Retail																				
Grocery										●	●		●		●	●			●	●
Convenience Store										∋	∋		∋		∋	∋			∋	∋
General Merchandise										●	●		●		●	●			●	●
Shopping Center											●									
Automobile Service Station										○	○				○	○			∋	∋
Outdoor Sales Limited											○				○	○			○	○
Outdoor Sales Lot											○				○	○				
Garden Center											○	○			○	○			○	○
Service																				
Convalescent or Nursing Home	○	○	○			○	○	○		○	○	○		○	○	○			●	●
Clinic	○	○	○			○	○	○		○	○	○			○	○			○	○
Outdoor Recreation Facility	○	○	○			○	○	○			○	○	●	○	○	○			○	○
Day Care	○	○	○			○	○	○		○	○	○		○	○	○			●	●
General Personal Services										●	●				●	●			●	●
Mortuary or Funeral Home											○			○	○	○			○	○
Automobile Repair											●				●	●			○	○
Indoor Recreation										●	●		○		●	●			●	●
Dry Cleaner / Laundry										●	○				○	○			○	○
Personal Storage											○		∋	∋	○	○			○	○
Bed & Breakfast												●				●		○	●	●
Hotel / Motel											○	●	●							
Boarding House or Dormitory											●	●		●	●	●			●	●
Recreational Vehicle Park											∋		∋		∋	∋				
Restaurant										○	●	○	●						●	●
Bar											●	○	●						●	●
Entertainment Venue											●		○			○			○	○
Marina												○	○			○			○	○
Kennel or Animal Hospital											○	○				○				
Warehouse															●	●				
Junk Yard or Salvage Yard															○	○				
Manufacturing																				
Limited											○			○	●	●			●	●
Light															●	●				
General															○	●				
Food Processing																○				
Rural																				
Agriculture	●																			
Rural Market	●																			
Plant Nursery	●																			

● Permitted subject to general ordinance standards and conditions.
∋ Permitted subject to special conditions listed in the ordinance
○ Permitted only on appeal and subject to special conditions

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

(a) is customarily incidental to and is maintained and operated as part of the principle use;
(b) is not hazardous to and does not impair the use or enjoyment of nearby property in greater degree than the principle use with which it is associated;
(c) does not create levels of noise, odors, vibration and lighting, or degrees of traffic congestion, dust or pollutants, in a greater amount than is customarily created by principle use; and
(d) is not located in minimum exterior yard.

3. Temporary Uses – The following temporary uses are allowed in any district subject to the limitations and standards specified.

(a) *Garage sale:* The city may issue, without charge, a permit to hold a garage or yard sale on a specific lot within the city, good for two consecutive days. Permits shall be issued not more frequently than once each calendar quarter per lot.
(b) *Temporary construction building:* Temporary buildings used in construction work only, may be permitted in any district and shall be removed immediately upon completion of construction.
(c) *Model homes and sales office:* Residential buildings in new subdivisions of record, containing fifty (50) or more lots may be temporarily used as model homes and sales offices provided such use conforms to the following:
    (1) A subdivision plat must be filed for record prior to issuance of a permit.
    (2) Facilities for sewage disposal must be approved and available.
    (3) Not more than 50 percent of gross floor area may be used for sales office.
    (4) Only sales activity relating to the subdivision is permitted and no other business activity may be conducted on the premises.
    (5) A permit shall expire upon completion of the sale of the last lot in subdivision or three calendar years from date of the permit, whichever is earlier. However, the license may be extended for good cause. License is not assignable except on approval of city.
    (6) Paved parking shall be provided for offices. Landscaping shall be installed in such a manner that vehicles utilizing parking lot shall be screened from view from the right-of-way. Upon expiration of the model home/office use, paving shall be removed by permittee and replaced with grass and landscaping.
    (7) The use is limited to the structure initially permitted and is not transferable to any other structure or lot within the subdivision.
    (8) Only one sign shall be allowed upon the premises, not exceeding six square feet in area. The sign shall not be illuminated.

C. Dimension Standards

1. Lots and Principal Structure

Table 3-2 indicates general dimension standards for lots and principle structures in all zoning districts. Unless otherwise specified in Section D. – Special Conditions for Uses, or Article V. – Special Districts, all lots and principle structures shall meet these standards.

Table 3-2: Dimension Table - Lots and Principle Structure

Dimension District or use	Min. Lot Area/ Allowed Units Per Acre (UPA)	Min. Lot Width	Setbacks				Max. total lot coverage by principle structure	Max. height
			Front	Rear	Side	Street side		
R/A	3 acres/ -	198’	75’	75’	25’	50’	none	30’
R-1	15,000 s.f./ -	100’	40’	35’	10’ [b]	20’	40%	30’ [a]
R-1a	40,000 s.f./ -	120’	30’	30’	10’ [b]	20’	25%	35’
R-1b	30,000 s.f./ -	100’	30’	30’	10’ [b]	20’	25%	35’
R-1c	20,000 s.f./ -	80’	30’	30’	10’ [b]	20’	25%	35’
R-2	10,500 s.f./ -	75’	35’	35’	10’ [b]	20’	37%	30’ [a]
R-3	7,800 s.f./ -	65’	30’	35’	8’ [b]	20’	35%	30’
R-3 PGH	4,000 s.f./ -	40’	20’	15’	10’ [b]	10’	32.5%	30’
R-3 TH	2,400 s.f. [j]/ -	24’	20’	35’	0’ [c]	20’	45%	30’
R-4	10,500 s.f. for two dwelling units plus 6,500 s.f. for each additional unit/ 7 UPA	75’ for two dwelling units plus 5’ for each additional unit	30’	35’	10’ [b]	20’	30%	30’
R-5	10,500 s.f. for two dwelling units plus 4,100 s.f. for each additional unit/ 10 UPA	75’ for two dwelling units plus 5’ for each additional unit	30’	35’	10’ [b]	20’	30%	30’
R-6	2 acres with a max. of 5 acres [i]/ -	250’	25’	20’	20’ [b]	25’	N/A	30’
B-1	None/ -	none	20’ [d]	20’	none [e]			30’ [l]
B-2	None/ -	none	20’ [d]	none [f]	none [e]			30’ [k l]
B-3a	7,500 s.f./ -	60’	30’	35’	10’		30%	30’ [l]
B-3b	7,500 s.f./ -	60’	20’	20’	none [e]		none	30’ [l]
B-4	None/ -	none	20’	20’	10’			30’ [l]
M-1	None/ -	none	none [g]	none [f]	none [e]		none	45’
M-2	None/ -	none	none [g]	none [h]	none [h]		none	45’
PUD	See Article V., Section A.							
VRM	See Article VI., Section A.							
NVC	See Article VI., Section B.							
CVC	See Article VI., Section C.							

a. Structure may exceed the building height provided the lot width is increased by 10 feet for each additional foot in height
b. Driveways to within 3 feet of the side lot line and a side setback of 15’.
c. End units shall have a minimum side yard of 10’.
d. Where a lot abuts residential property on both sides, the front setback shall be in line with adjacent structures.
e. Where a lot abuts residential property, the side setback shall be 10’.
f. Where a lot abuts residential property to the rear, the rear setback shall be 20’
g. In the case of existing adjacent establishments, the setback shall be the average within 100 feet on either side of the proposed structure.
h. Where a side or rear lot abuts residential districts, the setbacks shall be determined on an individual basis.
i. R-6 Districts may be larger than 5 acres provided they meet all the special design requirements of Article V., Section D.5.
j. Individual lots in the R-3 TH district may be as small as 2,400 square feet, however each unit must have a minimum of 3,600 square feet made up of lot area and common or public open space according to the standards in Article III, Section D.2.
k. Central Business District 35’.
l. A building located in any commercial zone may have a height of 35’ if it contains both residential and commercial space. The residential use must make up at least 33% of the total area of the building and be located on the second and/or third floor and retail or office space must be located on ground and/or second floor. (See Site Plan Review **Article II, Section C, Sub-section 2 – Site Plan, for approval procedures)**

2. Residential Accessory Structures

Table 3-3 indicates dimension requirements for residential accessory structures.

Table 3-3: Dimension Table - Residential Accessory Structures

Dimension / District or use	Setbacks				Max. total lot coverage by accessory structure	Max. height	Min. structure separation from principle structure
	Front	Rear	Side	Street side			
R/A	Behind front building line of principle structure	15’	15’	50’	30% of required rear yard	30’	50’ for agriculture structures; 10 feet for all other accessory structures
R-3 PGH*	Behind rear building line of principle structure	none required	same as principle structure	same as principle structure	25% of required rear yard*	20’ but no taller than the principle structure	5’
All other residential districts	Behind rear building line of principle structure	5’	5’	no nearer than principle structure	25% of required rear yard	30’ but no taller than the principle structure	10’

*one detached garage up to 600 square feet shall be allowed for Patio/garden homes in addition to the maximum total lot coverage for other accessory structures, subject to all other accessory structure dimension standards.

3. Yards

No part of a yard or other open space required for any building for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space similarly required for another building. Every part of a required yard or court shall be open to the sky, except for permitted accessory structures and the ordinary projection of sills, cornices, buttresses, ornamental features, chimneys, flues, and eaves, provided the projections shall not extend more than two feet beyond the yard area requirements.

4. Free-standing Commercial Structures

a. Any freestanding single use or tenant retail building in the Greeno Road Village Center as contemplated in the Comprehensive Plan shall not have a building footprint larger than 18,000 square feet.
b. Any free standing single use or tenant retail building in any other business zoning district shall not have a building footprint larger than 8,000 square feet.

D. Special Conditions for Uses

The following special conditions shall apply to all districts where the uses are permitted or permitted by special exception. These special conditions are in addition to the generally applicable standards that apply to all uses within a particular zoning district. In the case of a conflict between the generally applicable standard for the zoning district and the specific standard for the use listed in this section, the more specific standards in this section shall apply.

1. Recreational Vehicle Parks

a. *Intent:* The intent of the special conditions for Recreational Vehicle Parks is to:
- Provide opportunities for temporary travel and lodging facilities for tourists with recreational vehicles;
- Allow parks that are accessible to the community and attractions in Fairhope; and
- Ensure location and design standards compatible with community goals and surrounding property.

b. *Location Restrictions:* All recreational vehicle parks shall have direct access to a County, State or Federal Highway.

c. *Site Requirements:*
   (1) All recreational vehicle parks shall have a minimum lot width of not less than 50 feet for the portion used for entrance and exit. No entrance or exit shall be through a residential district.
   (2) The minimum lot area per park shall be three acres.
   (3) Use of space in recreational vehicle parks shall be limited to travel trailers, mobile homes, motor homes and campers with a maximum length, exclusive of hitch, of 28 feet.
   (4) Spaces shall be rented by the day or week only and an occupant of a space shall remain in the same trailer park for a period of not more than 90 days.
   (5) Management headquarters, recreational facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to operation of a trailer park are permitted as accessory uses in any district in which trailer parks are allowed provided:
      (a) The establishment and the parking area primarily related to their operation shall not occupy more than ten percent (10 %) of the area of the park.
      (b) The establishment shall be restricted to use by occupants of the park.
      (c) The establishment shall present no visible evidence of commercial character, which would attract customers other than occupants of the park.
      (d) No part of any space intended for occupancy for sleeping purposes shall be within 30 feet of the right-of-way.
   (6) The recreational vehicle park site plan shall be accompanied by a certificate of approval of the county health department.

2. Townhouses

a. *Intent:* The intent of the special conditions for Townhouses is to:
   - Provide a residential format as an alternative to single-family homes;
   - Allow townhouses to be appropriately intermingled with other types of housing and give residents of townhouses quality residential neighborhoods;
   - Ensure location and design standards compatible with surrounding property;
   - Prevent long, unbroken lines of row housing;
   - Make efficient, economical, comfortable, and convenient use of land and open space;
   - Serve the public purposes of zoning by means alternative to conventional arrangements of yards and building areas.

b. *Site Requirements:*
   (1) Not more than four contiguous townhouse units shall be built in a row with the same front line, and not more than eight townhouses shall be contiguous. In groups of townhouses consisting of more than four units; the required difference in front alignment shall be four feet. *See Figure 3-1.*

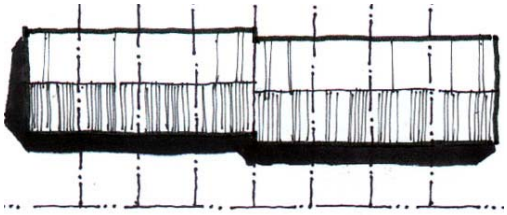


Figure 3-1. *Townhouse units of more than 4 shall have a differentiated front building line of at least 4 feet and no single building shall have more than 8 units.*

   (2) Townhouses shall have a minimum lot area of 3,600 square feet for each unit. This area may be on the same platted lot as the unit, may come from common open space, or can come from existing public open space or public open space proposed to be dedicated with the plan, which is within 660 feet of the unit. No more than one unit may claim the same public or common open space area towards meeting the requirement of 3,600 square feet for each unit.
   (3) Each townhouse shall have on its own lot one rear yard containing not less than 400 square feet, reasonably secluded from view from right-of-ways or from neighboring property. In condominium townhouse or townhouse complex developments not subdivided into lots, one yard containing not less than 400 square feet, reasonably secluded from view from right-of-ways or from neighboring property, shall be provided contiguous to and for the private use of the occupants of each dwelling unit. *See Figure 3-2.*

(4) All vehicle access to townhouse units shall be rear-loaded by alleys or an internal drive aisle accessing the parking area or garages from the rear of the unit. Insofar as practicable, exterior off-street parking facilities shall be grouped in bays at the interior of blocks. No off-street parking space shall be more than 100 feet by the most direct pedestrian route from a door of the dwelling unit it is intended to serve.

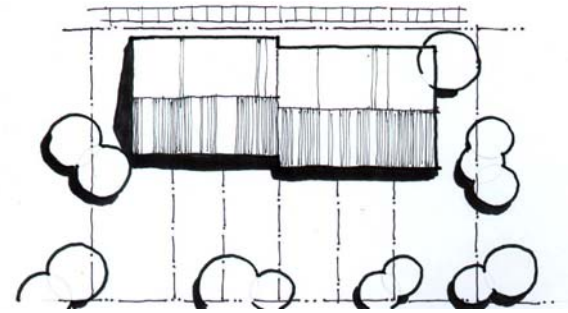


Figure 3-2. *All townhouse units shall have private yard areas of at least 400 square feet.*

(5) In townhouse developments with a total area greater than five acres at least 20% of the total area shall be devoted to public or common open space, exclusive of parking areas or accessory buildings. Common open areas may include recreational facilities. Provisions shall be made to assure that common open areas for the use and enjoyment of occupants of townhouses are maintained in a satisfactory manner without expense to the general taxpayer. In addition, the developer of a townhouse development or homeowners association created by the developer by recorded covenants and restrictions, shall preserve for the owners and occupants of the development lands set aside for open areas, parks, or recreational use, and the common off-street parking spaces established for the development.

3. Patio and Garden Homes

a. *Intent:* The intent of the special conditions for Patio homes is to:
- Provide a residential format as an alternative to single-family homes;
- Allow patio homes to be appropriately intermingled with other types of housing and give residents of patio homes quality residential neighborhoods;
- Ensure location and design standards compatible with surrounding property;
- Create a low-maintenance residential alternative;
- Make efficient, economical, comfortable, and convenient use of land and open space;
- Serve the public purposes of zoning by means alternative to conventional arrangements of yards and building areas.

b. *Location Restrictions:* Patio Homes and Garden Homes are only allowed in districts zoned PUD. The special conditions in this section shall also apply to patio homes and garden homes existing as an allowed use in the R-3 PGH district prior to July 10, 2000.

c. *Site Requirements:*
(1) Not more than two patio homes shall be connected.
(2) Each individual patio home unit shall be constructed on its own lot.
(3) Each lot shall be a minimum width of 40 feet at the front building line, and a minimum lot size of 4,000 square feet.
(4) Each patio home shall have one side yard with a minimum of 10 feet. Minimum depth for rear yard shall be 15 feet. Fireplace and chimney may be placed in the side or rear yard setback provided they do not project beyond 24 inches beyond the wall, and, provided they do not restrict or obstruct any drainage or drainage easement, either existing or proposed. The required 10 foot side yard must be kept perpetually free of permanent obstructions, accessory structures, walls and fences without gates.
(5) Privacy fences or walls may be placed on or along any lot lines provided that the fences or walls are not constructed in a manner to block any local lot drainage and provided gates or other openings are provided that will not restrict access for fire protections. An eight-foot maximum height limit will be permitted for privacy fences or walls located on or along any required side or rear yard.
(6) Each patio home shall have on its own lot, one yard containing not less than 600 square feet, reasonably secluded from view of right-of-ways or neighboring property.
(7) Maximum lot coverage permitted for the main dwelling shall be 60% of the permitted building area not including coverage permitted for accessory buildings or structures.

(8) Off-street parking shall be located within the interior of the lot. A common parking area serving no more than six patio homes may be centrally located, provided it is not more than 100 feet from any dwelling unit it serves and is screened from public right-of-ways and adjacent property.

(9) The exterior walls of the patio home, or any accessory structures located on the zero-foot side yard setback shall not project over the property lines. Roof overhang may penetrate maintenance and drainage easement of the adjacent lot a maximum of 30 inches, provided the roof shall be so designed that water run off shall be restricted to the drainage easement area.

(a) Where adjacent zero lot line dwellings are not constructed against or along a common lot line, a perpetual drainage easement shall be provided which shall be approved by the city engineering department. Fences and walls may be located on or along this easement provided gates or other openings that will not block local lot drainage are maintained.

(b) The lot adjacent to the zero setback side yard must be under the same ownership at the time of initial construction (ensuring that a developer does not infringe on the property rights of owners of adjacent tracts).

(c) A 15-foot side setback shall be required, provided the adjacent property is not zoned for patio homes or is not a permitted use in the adjacent zoning district.

4. Automobile Service Stations and Convenience Stores

a. *Intent:* The intent of the special conditions for Automobile Service Stations and Convenience Stores is to:

- Provide access to necessary services offered by automobile service stations and convenience stores from all areas of the city;
- Allow service stations and convenience stores to be appropriately mingled with other non-residential uses;
- Ensure location and design standards compatible with surrounding property, particularly the scale and intensity of surrounding commercial uses;
- Minimize the potential negative impact that automobile service stations and convenience stores may have on surrounding property and neighborhoods;
- Recognize that the design and scale of automobile service stations and convenience stores can determine how well this use fits in with surrounding uses.

b. *Location Restrictions:*

(1) In the NVC district or CVC district, automobile service stations may be located anywhere subject to the special design requirements listed in Section D.4.d of this Article

(2) In all other districts, the property on which an automobile service station or convenience store is located shall not be within 100 feet of any residential district, or any property containing a school, public playground, church, hospital, public library, institution for children or dependents.

c. *Site Requirements:*

(1) An automobile service station or convenience store shall have a minimum front lot line on the primary right-of-way of 120 feet and a minimum area of 12,000 square feet.

(2) All buildings shall be set back 40 feet from all right-of-way lines and all canopies shall be set back 15 feet from all right-of-way lines.

(3) A raised curb of at least six inches in height shall be erected along the right-of-way lines, except for driveway openings.

(4) A solid fence or wall not less than six feet nor more than eight feet in height shall be erected along all adjacent property lines facing any adjacent residential lot.

(5) Light or glare shall not spill onto adjacent property or right-of-ways. All light fixtures shall be either recessed into a canopy, or if they protrude shall have a box that shields the bulb from direct view. A light fixture that protrudes from the bottom of a canopy shall have a box completely surrounding the bulb and the lens shall be flush with the box. Lenses shall not protrude

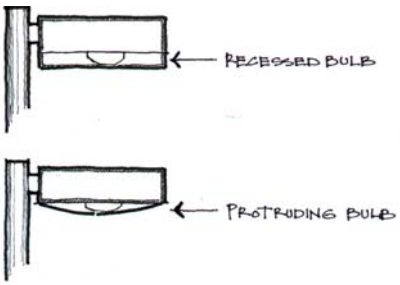


Figure 3-3. *All light sources shall be shielded. Protruding bulbs and lenses are prohibited.*

past the bottom of the box. Should a gas station canopy be repaired or improved and the value of the improvements or the repair total 50% or more of the assessed value of the structure, these lighting requirements must be met. This 50% value is a cumulative total. *See Figure 3-3.*

(6) All driving, parking storage, and service areas shall be paved and curbed.

(7) No automobile service station or convenience store shall be extended in area unless the proposed extension is in conformity with the requirements.

(8) All gasoline pump islands shall be set back at least 15 feet from right-of-way line, or where a future widening line has been established, the setback line shall be measured from such line, and where pump islands are constructed perpendicular to the right-of-way. However, the pumps shall be at least 60 feet from the centerline of an arterial street, 55 feet from the centerline of a collector street and 45 feet from the centerline of other streets.

(9) Vehicular entrances or exits shall be provided according to Article V. of the Subdivision Regulations.

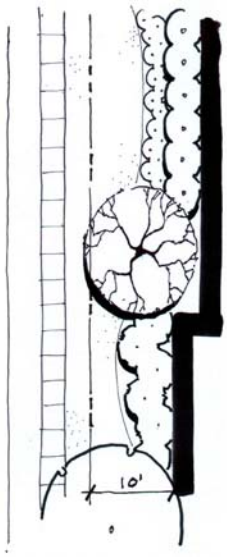


Figure 3-4. *Maximum 10-foot setback in the NVC or CVC Districts.*

d. *Special Design Requirements - NVC and CVC Districts:* In addition to the above site requirements, the following special design requirements shall apply to automobile service stations or convenience stores located in the NVC or CVC.

(1) All buildings shall be set back no more 10 feet from all right-of-way lines. Any area between the building and the right-of-way shall only be used for landscape elements. *See Figure 3-4.*

(2) All buildings shall have a primary entrance facing the street, directly connected to the public sidewalk.

(3) At least 60% of all street-frontages on the lot shall be occupied by the building. On corner lots, the street frontage on the secondary street may be occupied by the building on as little as 50% of that frontage, provided that the 60% requirement is met when both frontages are combined. *See Figure 3-5.*

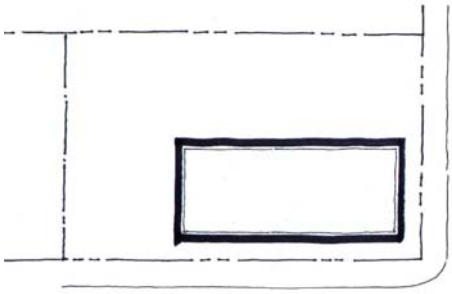


Figure 3-5. *Street frontages shall be occupied by building facades for at least 60% of the lot width on the buildings primary street. Corner buildings may reduce this to as much as 50% on the buildings secondary street provided the cumulative total for both streets exceed 60%.*

(4) All buildings shall have at least 50% clear glazing on of any street facing ground level. Glazing on windows and doors shall count towards this requirement. *See Figure 3-6.*

(5) Pump islands shall be located behind or to the side of the building.

(6) No more than two pump islands with a maximum of four pumping stations per island shall be located on the site.

(7) No more than two service bays shall be located on the site. Service bays shall not face the primary street frontage of the building.

(8) All driving, parking storage, and service areas shall be paved and curbed.

(9) All gasoline pump islands shall be set back at least 15 feet from right-of-way line, or where a future widening line has been established, the setback line shall be measured from such line, and where pump islands are constructed perpendicular to the right-of-way. However,

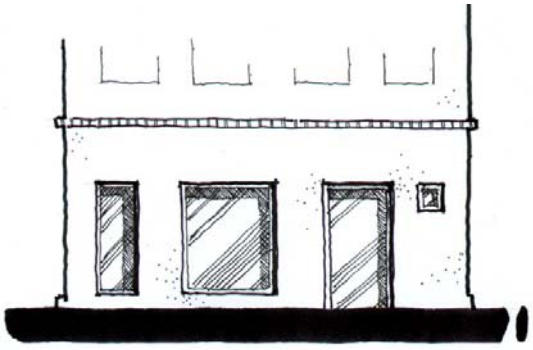


Figure 3-6. *Ground level, street-facing facades shall have at least 50% clear glazing.*

the pumps shall be at least 60 feet from the centerline of an arterial street, 55 feet from the centerline of a collector street and 45 feet from the centerline of other streets.

(10) Vehicle entrance and exits shall be subject to the specifications in the Subdivision Regulations.
(11) No outdoor storage of any kind is permitted on the site.
(12) All vehicles shall be stored in an enclosed area and all vehicle repairs shall occur in an enclosed area.
(13) All automobile service stations are subject to special site enhanced screening conditions to appropriately screen adjacent property from parking, pump islands, or service bays. This site screening shall be specific to the context of the site and may involve landscape, walls, or other elements in accordance with the tree and landscape ordinance.

5. Home Occupations

a. *Intent:* The intent of the special conditions of Home Occupations is to:
- Provide opportunities for residents to earn income and operate businesses from their home;
- Allow businesses that do not adversely impact the residential character of neighborhoods; and
- Ensure that the ongoing operations of home occupations are not visible or detrimental to adjacent residents and property owners.

b. *Location Restrictions:*
(1) Home occupations are permitted in all districts where residences are permitted, if licensed by the City's revenue officer and conforming to the special conditions of this section and any applicable laws or ordinances.
(2) Any operation, which, whether by requirement of any law or regulation or for any other reason, requires a full and complete separation from the living area of the main building, shall not be construed as a home occupation within the meaning of the ordinance.

c. *Site Requirements:*
(1) The home occupation shall be an accessory use, incidental to the primary use of the premises for residential purposes.
(2) The home occupation shall be operated only by members of the family residing on the premises. No non-family employees shall be employed on the premises. No article or service shall be sold or offered for sale except as may be produced by members of the family residing on the premises and no merchandise shall be delivered to customers at the premises.
(3) No home occupation shall alter the appearance of the home or neighborhood either through structural changes or through ongoing activities and operations. The building shall be an existing structure ready for occupancy and not a proposed structure. No building altered in any fashion inconsistent with the residential appearance for the purpose of accommodating or expanding any home occupation, existing or proposed.
(4) Parking for not more than two vehicles in conjunction with home occupation may be provided in the existing driveway area. No expansion of parking to serve the home occupation shall be permitted and in no case shall public property be utilized for parking. Uses that require additional parking per the parking schedule shall not be eligible as a home occupation.
(5) The home occupation shall not generate excessive traffic or produce obnoxious odors, glare, noise vibration, electrical disturbance, radioactivity, electromagnetic interference or any other condition detrimental to the character of the surrounding area.
(6) Business signs shall not be permitted for home occupations located within residential districts. In other use districts, signs shall not exceed two square feet in sign area, attached to the face of the building, limited to one sign only.
(7) For purposes of home occupations, the written statements of the majority of owners of property within 300 feet in opposition to the home occupation shall be sufficient cause to determine that the use is of a character detrimental to the surrounding area.

d. *License*
(1) No license, new or renewal, shall be issued until an application shall have been completed by applicant, premises inspected and application endorsed with approval of the Director of Planning and Building.

(2) The applicant for a home occupation license shall either own the property or, if a tenant, have the owner's written permission to engage in the proposed home occupation.
(3) The license shall be kept on file at the premises where the home occupation is located and shall be subject to examination by the revenue officer or Director of Planning and Building upon request, and shall be surrendered to the city upon written citation for violations of any condition or ordinance requirement.
(4) Home occupation licenses shall expire on the 31st day of December of each calendar year and are delinquent February 1st.

6. Cemeteries

a. *Intent:* The intent of the special conditions for cemeteries is to:
- Provide public access to cemeteries within the City;
- Allow cemeteries to establish a park-like, civic setting to mourn, honor, and commemorate the deceased; and
- Ensure location and site conditions that are compatible to surrounding property and neighborhoods.

b. *Location Restrictions:*
(1) The site proposed for a cemetery shall not interfere with the development of a system of collector or larger streets in the vicinity of the site. In addition, the site shall have direct access to an arterial street.
(2) Any new cemetery shall be located on a site containing not less than twenty (20) acres.

c. *Site Requirements:*
(1) All structures shall be set back no less than 25 feet from any property line or minor street right-of-way.
(2) All graves or burial lots shall be set back not less than 25 feet from any property line on local street right-of-way lines, and not less than 50 feet from any collector or arterial street right-of-way.
(3) The entire cemetery property shall be landscaped and maintained.
(4) The expansion of any existing cemetery shall only be allowed according to the Special Exception procedures in Article II.

7. Storage and Parking of Trailers and Commercial Vehicles

a. *Intent:* The intent for the special conditions for Storage and Parking of commercial Vehicles is to:
- Provide opportunities for residents to own, utilize, and store commercial vehicles, trailers, and recreational vehicles; and
- Ensure that parking and temporary storage of commercial vehicles, trailers, and recreational vehicles is not detrimental to the neighborhood character and adjacent residents or property owners.

b. *Location Requirements:* Commercial vehicles and trailers of all types, including travel, boat, camping and hauling, shall not be parked or stored on any lot occupied by a dwelling or any lot in any residential district except in accordance with the requirements in this section.

c. *Site Requirements:*
(1) No more than one commercial vehicle per dwelling shall be permitted. In no case shall a commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products be permitted.
(2) No travel trailer, hauling trailer, utility trailer, boat, boat trailer, motor home or commercial vehicle shall be parked or stored in the front yard, or on corner lots, in a side yard abutting a public right-of-way or upon the right-of-way. The length of said vehicle shall not exceed twenty-eight feet (28').
(3) These vehicles shall be allowed in a side yard only if the rear yard cannot be reasonably accessed. Topographical features, the existence of mature trees or the existence of properly permitted and constructed structures, which prevent rear yard parking, is sufficient to establish a lack of rear yard access. If parked in the rear yard, a hard surface pad with access shall be provided by either a hard surface drive, hard surface drive strips or an access drive constructed of turf block materials. All vehicles covered by this section shall have a minimum side and rear setback of six feet (6'). No vehicle covered in this section shall be located in a side yard containing a driveway.

(4) A travel trailer shall not be occupied either temporarily or permanently while it is parked or stored in any area except in a recreational vehicle park authorized under this ordinance.
(5) A junked vehicle, or one that is not operational shall not be permitted to be located on or near lots with dwelling units. These junked autos shall be confined to junkyards.

8. Personal Storage

a. *Intent:* The intent of the special conditions for Personal Storage is to:
- Allow for personal storage services to be mixed with other compatible commercial uses;
- Ensure that personal storage facilities are located appropriately in order to minimize the impact on adjacent property; and
- Recognize that the design and scale of personal storage facilities can determine how well this use fits in with surrounding uses.

b. *Location Requirements:*
(1) Exterior personal storage facilities on more than two acres shall be located only in the M-1 and M-2 districts and only by special exception.
(2) Exterior personal storage facilities on less than two acres and indoor personal storage facilities may be located in the B-2 district and only by special exception.

c. *Site Requirements:*
(1) All one-way drive aisles shall provide for one 10-foot wide travel lane. Traffic direction and parking shall be designated by signs or painting.
(2) All two-way drive aisles shall provide for one 10-foot wide parking lane and two 12-foot wide travel lanes.
(3) Two parking spaces, to be located at the project office for use of clients, shall be provided for the manager's quarters plus one additional space for every 25 storage cubicles.
(4) Any other site requirements determined through the special exception procedure to minimize impacts on adjacent property.

9. Accessory Dwelling Units

a. *Intent:* The intent of the special conditions for accessory dwelling units is to allow flexibility in living arrangements and home occupations while maintaining the residential character of existing neighborhoods. These standards apply to all districts except for the Village Districts in Article VI.

b. *Location Restrictions:* Accessory dwelling units shall be located on the same lot as the principal structure and are subject to the dimension standards in Section C.2. of this Article.

c. *Site Requirements:*
(1) Any accessory structures shall only have a half bath.
(2) Kitchens and electrical wiring or gas-supporting kitchens are prohibited.
(3) Any accessory structure proposed for office or extra living areas shall not be larger than 50% of the gross square footage of the principal structure.
(4) Any utilities for an accessory structure shall run through the principal structure.

d. *Exception*: Notwithstanding anything contained in this subsection 9 to the contrary any "bona-fide" mother-in-law suite with a kitchen, attached to the principle structure, under common roof, shall not be deemed to be an accessory dwelling unit for purpose of this zoning ordinance but, instead, shall be deemed to be a part of the principle dwelling unit.

10. Building Materials on Commercially Zoned Property

a. *Intent:* The intent of the special conditions on building material for commercially zoned property is to prevent negative visual impact, provide attractiveness and beautification, and protect commercial property values.

b. *Location restrictions:* The special conditions in this section shall apply to any commercially zoned property in the City of Fairhope.

c. No building or portion of a building visible from a public street or right-of-way shall be exposed metal. A façade of some type or material shall be used to visually screen the metal from the public street or right-of-way.

Article IV

Site Design Standards

A. Open Space
B. Screening, Lighting and Landscape Material
C. Streetscape
D. Site Access and Internal Circulation
E. Parking
F. Stormwater Management
G. Signs
H. Tree Preservation

This Article provides site design standards for seven key elements that are part of most development sites: open space; screening, lighting, and landscape material; streetscape; site access and internal circulation; parking; stormwater management; and signs. The standards are intended to contribute to the ability of development sites to integrate into the City's overall plan. The standards and guidelines in this article should be applied in every zoning district and to every site design to the extent that the component is required by any development regulation or is otherwise proposed as part of the site plan or development. These design standards should be applied in addition to any specific area or design standards contained in other sections for a particular zoning district.

A. Open Space

1. Intent

The open space design standards are intended to provide design solutions that ensure each area of open space serves a specific function and is not merely left over or under-utilized space. The design standards are also intended to provide greater access to a wider variety of open spaces. These design standards are to be applied to any area used to meet specific area requirements of the zoning districts and subdivision regulations for open space or greenspace.

2. Types of Open Space

The following Table 4-1 indicates the categories, types, and general sizes of open space that can be used to meet the City requirements for open space and greenspace. Generally there are two categories – Natural and Civic. Natural open space is most appropriate in neighborhoods, rural areas, or at the edges of village developments. It can also be used at any location where significant natural features warrant preservation. Civic open space is most appropriate in convenient locations, easily accessible by a large number of people. Typically this will be at the center of a residential neighborhood or in a village or commercial center.

Table 4-1: Open Space Categories and Types

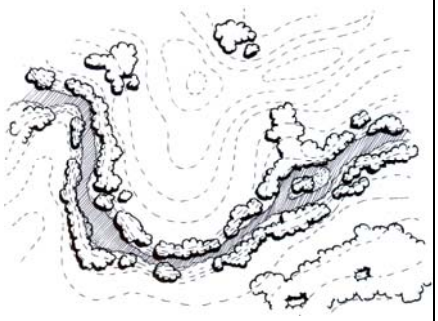
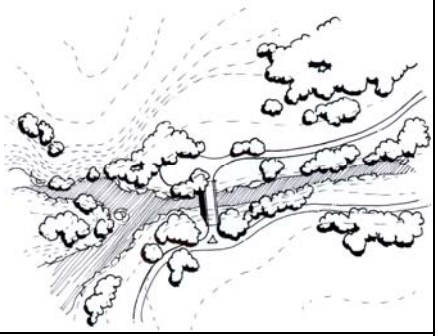
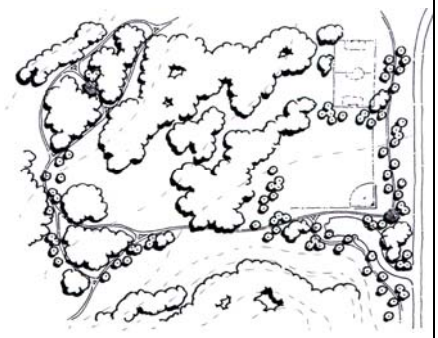
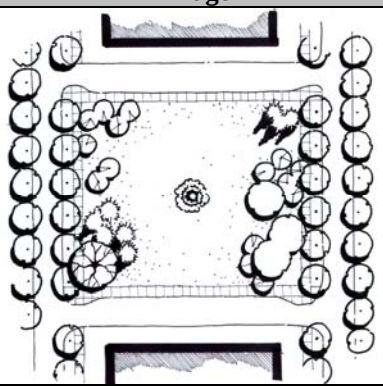
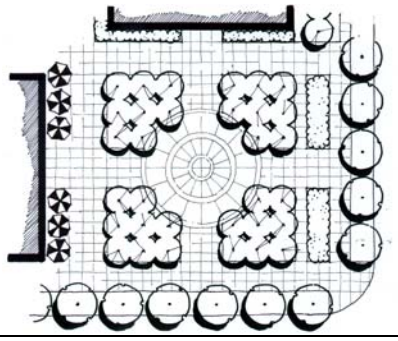
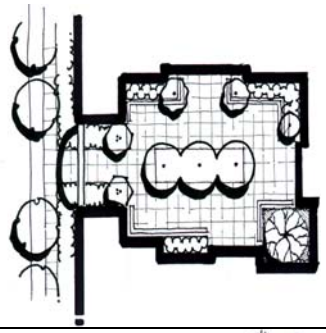
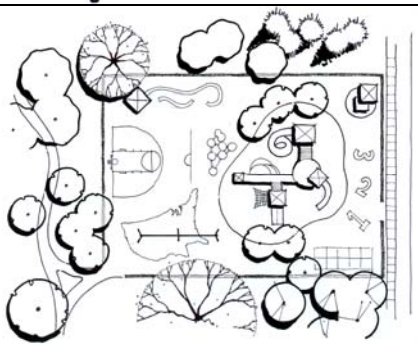
Category	Type	Description	Size Recommendation	Image
NATURAL OPEN SPACE	Preserve	An undeveloped area that contains significant natural features or habitat worthy of preservation. Features such as large stands of trees, water elements, or prominent topography characterize preserves. A preserve may by use for passive recreation or as a scenic and visual buffer. It generally contains little or no constructed improvements although trails may access the preserve.	The size of a Preserve open space should be based on the site characteristics and potential continuity of natural features in the area along with the potential to connect to adjacent natural areas.	
	Trail / Greenway	An undeveloped area of continuous linear natural features, often following a stream or floodplain. A trail or greenway should be usable for recreation and non-motorized transportation. It includes few constructed improvements except for those to enhance travel or recreational use.	Generally should include at least 3 acres but should be sized and located based on providing significant continuity throughout a development and to areas beyond the development area. Must be at least 30' wide at all locations.	
	Park	An undeveloped natural area for unstructured recreation. A park may include some areas for structured recreation, such as ball fields, but generally this area should occupy no more than 25% of the total area. Parks are located based on the presence of natural features or based on convenience for surrounding residents. A park has a predominantly natural landscape although portions may be designed for aesthetic and recreation purposes, particularly for parks located due to convenience.	At least 3 acres	

Table 4-1: Open Space Categories and Types (continued)

Category	Type	Description	Size Recommendation	Image
CIVIC OPEN SPACE	Green	An open space for unstructured recreation or aesthetic landscaping. A green is bordered by public right-of-ways on at least 2 sides, front building facades, and formal landscaped elements to define its boundaries. Generally there are few constructed elements except as a formal entry to or a focal point for the green.	¼ to 3 acres	
	Plaza	An open space for civic purposes and commercial activities. A plaza is bordered by public right-of-ways on at least 2 sides, and building facades to define its boundaries. It is largely constructed of materials to withstand heavy pedestrian traffic, but contains intermittent lawns, landscape beds, or trees in a formal pattern.	1/8 to 2 acres The size of plazas is generally determined by the height of surrounding buildings, maintaining between a 1:3 and 1:6 ratio of building height to plaza.	
	Courtyard	A small open space accessible to the public but generally serving one or a few surrounding buildings. Courtyards are primarily bordered by building facades, but have at least one side fully or partially boarded by a public right-of-way. Courtyards are often constructed of materials to withstand heavy pedestrian traffic, but contain intermittent formal landscape elements.	1000 square feet to 1/8 acre The size of courtyards is generally determined by the height of surrounding buildings, maintaining a between a 2:1 and 1:3 ratio of building height to courtyard.	
	Playground	Open space designed and equipped for structured recreation. Playgrounds are often boarded by a fence or other private boundary (as in the case of a playground internal to a block) but are accessible by common pedestrian path. Alternatively, playgrounds included as part of a larger civic or natural open space do not necessarily have borders.	1000 square feet to ¼ acres. A playground may be part of larger civic or natural open space.	

B. Screening, Lighting and Landscape Material

1. Intent

The screening, lighting, and landscape material sections are intended to create a quality community image, minimize the impact of development on adjacent sites, allow property owners to create comfortable and appropriate private environments, and integrate all development into the overall community plan.

2. Screening

a. In any district, all mechanical or operating equipment, materials, or activities not contained within a building, such as drive-through equipment, outdoor storage of materials, stationary machinery, and outdoor servicing activities, shall be enclosed by a wall or fence of solid appearance or tight evergreen hedge not less than six feet in height. If the owner elects to build a wall or fence of bare or severe appearance it shall be enhanced with the planting of shrubs.

b. In any district where a commercial/industrial use abuts a residential use, screening/buffering shall be required. Acceptable screening/buffering shall include a wall or fence of solid appearance, or tight evergreen hedge not less than six feet (6') in height and a twenty foot (20') landscaped buffer containing at least one (1) overstory tree and five (5) shrubs per every twenty-five linear feet (25').

3. Parking Lot/Open Area Lighting

Parking lots with 50 or fewer spaces and open area requiring lighting for general purposes shall have light poles that do not exceed 10 feet overall height. Parking lots having more than 50 spaces shall have light poles that do not exceed 20 feet overall height. Luminaries of a sharp cut off design to shield light source above 72 degrees from vertical and providing 1.0 average maintained foot-candles with the following uniformity ratios: 3:1 average/minimum * (.33 FC minimum), 12:1 maximum/minimum * (4.0 FC maximum) are required in all cases. Public facilities such as lighted ball fields are excluded. A photometric grid shall be furnished by developer at time of building permit application.

* maximum or minimum foot-candle level at any point lighted area.

4. Landscape Materials

All un-built yards and open space required by this ordinance, and all natural screening material, shall be planted according to the specifications of the City landscape ordinance.

5. Fencing

a. Fences are permitted in every zoning district. A building permit shall be obtained prior to construction of any fence. Fences may be permitted on the property lines or anywhere else on the lot provided that:
   (1) Fences shall not be constructed in a drainage easement, floodway, or other watercourse; and
   (2) Fences shall not be constructed in any required clear sight distance.

b. Fences in all residential zoning districts are subject to the following requirements:
   (1) No fence shall be higher than eight (8') feet. Any fence forward of the front building line shall not be higher than four (4') feet;
   (2) No corrugated metal sheets, solid sheets of metal, plywood, particleboard, or similar materials shall be allowed; and
   (3) No barbed wire, razor wire, or similar materials shall be allowed except for fences used for agricultural purposes in the R-A – Residential/Agriculture zone.

c. Fences in all non-residential zoning districts are subject to the following:
   (1) No fence shall be higher than 12 feet. Any fence in front of the front building line shall be limited to between two and one-half and four feet high and shall have a design style consistent with the architectural elements of the buildings on the site.
   (2) No corrugated metal sheets, solid sheets of metal, plywood, particleboard, barbed wire, razor wire, or similar materials shall be allowed.

C. Streetscape

1. Intent

Streetscape refers to the area between building facades on opposite sides of the street. It consists of public rights-of-way and private but publicly visible space. The streetscape site design standards are intended to create a smooth transition from the public realm to the private realm, provide a pleasant pedestrian experience, improve the appearance and function of the public rights-of-way, and reinforce and enhance the perception of the City as a unique and livable community. *See Figure 4 –1.*

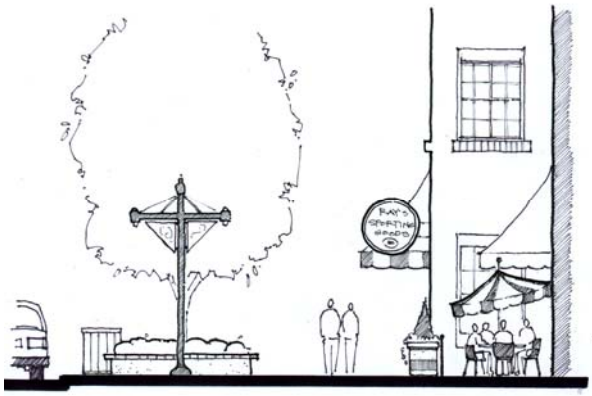
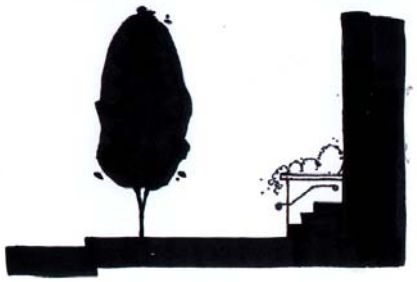
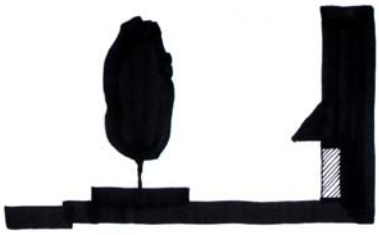


Figure 4–1. *Streetscape refers to all areas visible from the street and fronting buildings, and may consist of public or private property.*

2. Frontage Types

The following Table 4-2 indicates frontage types that make up the private portion of the streetscape. In zoning districts where specific setbacks are specified, any frontage type within that range may be used. In zoning districts where specific frontage types are specified, the frontage types may be used within the acceptable setbacks listed in this section and in the zoning district standards.

Table 4-2: Frontage Types

Frontage	Building line*	Description	Image
Yard	20' minimum 40' maximum Estate dwelling units and Civic uses with a yard frontage shall have no maximum depth for the front building line.	A frontage with the building set back from the right-of-way line. The yard area is most appropriately used for landscape materials, natural vegetation, or focal points such as art or sculptures. The yard frontage is most appropriate in rural settings, residential neighborhoods, for residential uses along arterial streets where a buffer is desired, and for civic land uses in any setting.	
Terrace	8' minimum 20' maximum	A frontage with the buildings separated from the right-of-way by a slightly elevated garden or small yard. The terrace area is most appropriately used for landscape materials and entry elements, such as stairways, gateways or small fences or hedges. The terrace frontage is most appropriate in residential neighborhoods or areas of steeper topography.	
Courtyard	10' minimum 20' maximum A portion of the building, typically more than 50% of the front façade) should be built at or near the right-of-way line	A frontage with a portion of the building close to the right-of-way line, while the remaining potion is setback from the right-of-way line, providing a pocket of open area in the courtyard. The courtyard area is most appropriately used for landscape material or constructed patios for pedestrian traffic. The courtyard frontage is most appropriate on higher-density residential blocks or for businesses that can utilize formal outdoor space.	
Stoop	8' minimum 15' maximum	A frontage with the building close to the right-of-way line but with the first floor slightly elevated (typically 3 to 5 feet) to ensure privacy to occupants of the building. Typically the closer the building line is to the right-of-way, the higher the elevation of the first floor should be. The setback area is most appropriately used with an ornamental stair and entranceway to the buildings, potentially with a small usable space at the top. The remaining portion of the setback area can include a small area of landscape material. The stoop frontage is most appropriate for higher-density residential blocks, or residential buildings mixed on blocks with non-residential buildings.	
Street-front	0' minimum 10' maximum	A frontage with the building at the right-of-way line or slightly set back from the right-of-way line. The ground level of the building is predominantly transparent and available to uses serving the public, thus providing varied and interesting environment to pedestrians. Any setback area is typically designed seamlessly with the right-of-way with either expanded sidewalks, landscape beds, street-front seating, or a covered walkway. The street-front frontage is most appropriate for non-residential uses in pedestrian-oriented areas.	

* The building line expresses the general acceptable range for distances of principal buildings from the right-of-way. This range shall apply unless a more specific set back or build to line is specified for a particular zoning district.

D. Site Access and Internal Circulation

1. Intent

Site access and internal circulation standards are intended to balance the need for site-access by vehicles with pedestrian movements. Design elements are intended to create a smooth transition from the public rights-of-way to the private property, and to improve the appearance and function of the public rights-of-way for all users including pedestrians, bicycles, and automobiles.

2. Curb Cuts

Curb cuts for property not being subdivided shall be allowed according to the same Lot Access standards established in the Fairhope Subdivision Regulations. When the development process requires access standards different from those standards, either from a traffic study or through a subdivision waiver process, the revised standards shall comply with the goals of the Comprehensive Plan, the Subdivision Regulations, and this ordinance. Any special access conditions for particular uses are indicated in Article III., Section D., and any special access conditions for particular zoning districts are listed in Article VI.

3. Internal Driveways, Aisles and Driveway Lanes

All driveways shall be set back a minimum distance of three feet from the side lot line, except where shared access driveways are provided. To the extent practical, all internal driveway aisles should be designed and dimensioned as closely as possible to the public street standards in the Fairhope Subdivision Regulations, including sidewalks, planting strips, and parking lanes.

4. Clear sight lines

Clear sight lines shall be maintained for all lot access points and internal circulation intersections in accordance with the standards for public street intersections specified in the Fairhope Subdivision Regulations.

5. Off-Street Loading/Unloading

Off-street loading/unloading spaces shall be provided according to the following:

a. *Size of Spaces:* Each off-street loading/unloading space shall have minimum dimensions of 14 feet in height, 12 feet in width, and 55 feet in length. However, upon sufficient demonstration that a particular loading space will be used exclusively by shorter trucks, the board of adjustment may reduce the minimum length accordingly to as little as 35 feet.

b. *Connection to Street or Lane:* Each required off-street loading/unloading space shall have direct access to a street or lane, or have a driveway which offers satisfactory ingress and egress for trucks.

c. *Required spaces:* All non-residential buildings with uses requiring the receipt or distribution of materials or merchandise shall provide at least one off-street loading/unloading space per each 10,000 square feet , or fraction thereof, of floor area located on the same lot as the building or use. Adjacent buildings or uses of less than 10,000 square feet may share loading/unloading spaces within 300 feet of the loading/unloading entrance. All off-street loading/unloading spaces shall be located to not hinder free movement of pedestrians and vehicles over a sidewalk, street, or lane.

d. *Permanent Reservation:* Areas reserved for off-street loading/unloading in accordance with the requirement of this ordinance shall not be reduced in area or changed to any other use unless the

permitted use which is served is discontinued or modified unless alternate and equivalent loading/unloading space is provided and approved by the board of adjustment.

E. Parking

1. Intent

Parking standards are intended to provide adequate access and vehicle storage for land uses, but also minimize negative impacts of large expanses of parking such as poor pedestrian environments, degraded community aesthetics, additional stormwater runoff from excess impervious surfaces, and under-utilized space.

2. Required Parking

The following Table 4-3 is the parking schedule and represents the minimum required parking spaces for specific land uses. These standards shall apply in any district the use is allowed, or permitted by special exception. These standards shall not apply to the CBD Overlay, where on-street parking is permitted. However, wherever practicable, businesses in the CBD Overlay are encouraged to provide off-street parking facilities. Any specific use or district condition in Article III of this ordinance shall apply along with the standards and conditions of this Section. Any area reserved for off-street parking in accordance with the requirements of this ordinance shall not be reduced in area or changed to any other use unless the permitted use, which it serves, is discontinued or modified, or alternate and equivalent parking space is provided to the satisfaction of the board of adjustment.

Table 4-3 – Parking Schedule

Land Use	Parking Required
Residential:	
Accessory dwelling unit	1 space per dwelling unit
Mixed use dwelling unit	1 space per dwelling unit
All other dwelling units	2 spaces per dwelling unit
Lodging:	
Hotels, Motels, Boarding Houses/Dormitory, Manufactured Home Developments, and Recreational Vehicle Parks	1 space per bedroom, mobile home, or travel trailer space, plus 1 space per five employees
Bed and breakfast or tourist home	2 spaces per residential use plus one space per guest bedroom.
Public Assembly:	
Community Centers and Clubs	1 space for each 100 feet of building under roof.
Indoor Recreation, Outdoor Recreation , Entertainment Venues, Places for Worship, stadiums and similar places of assembly	1 space for each 4 seats or each 200 square feet of assembly floor area, whichever is greater.
Libraries, museums, and general Civic Uses	1 space for each 500 square feet of gross floor area.
Schools, including kindergartens, playschools and day care centers	1 space for each 4 seats in assembly hall, or 1 space for each employee, including teachers and administrators whichever is greater, plus 5 spaces per classroom for high school and colleges.
Health Facilities:	
Hospitals, Convalescent or Nursing Homes, and similar institutional uses	1 space for each 4 beds, plus 1 space for each 4 employees including nurses.
Kennels and Animal Hospitals	A parking area equal to 30 percent of the total enclosed or covered area.
Medical, dental and health offices, and Clinics	1 space for each 200 square feet of floor area used for offices and similar purposes.
Mortuaries and funeral homes	5 spaces per parlor chapel unit, or 1 space per 4 seats,

Land Use	Parking Required	
	whichever is greater.	
Businesses:		
General Retail and Office establishments	0 to 400 square feet of floor area -	4 parking spaces
	400 to 5000 square feet of floor area -	same as above plus 1 for each additional 400 square feet
	over 5000 square feet of floor area --	same as above plus 1 parking space for each additional 200 square feet
Restaurants and Bars	1 space for each 4 seats up to 52 seats and 1 space for each 6 seats thereafter.	
Automobile Service Stations	A minimum of 2 off-street parking spaces is required with an additional off-street parking space for each lubrication or wash bay.	
Industries:		
Commercial, manufacturing and industrial establishments, not catering to retail trade	1 space for each 3 employees on the maximum working shift, plus 1 space for each vehicle operating from the premises.	
Wholesale establishments	1 space for every 50 square feet of customer service area, plus 2 spaces for each 3 employees on the maximum working shift, plus 1 space for each company vehicle operating from the premises.	

3. Parking Dimensions and Size

a. Parking lot dimensions shall be as follows:

See Figure 4–2	90 ° angle	60 ° angle	45 ° angle
A – stall width	10’	10’	10’
B – stall depth	20’	20’	20’
C – two-way aisle width	20’	20’	20’
D – one-way aisle width	20’	17’	13’
E – one-way single-loaded aisle width	16’	14’	11’

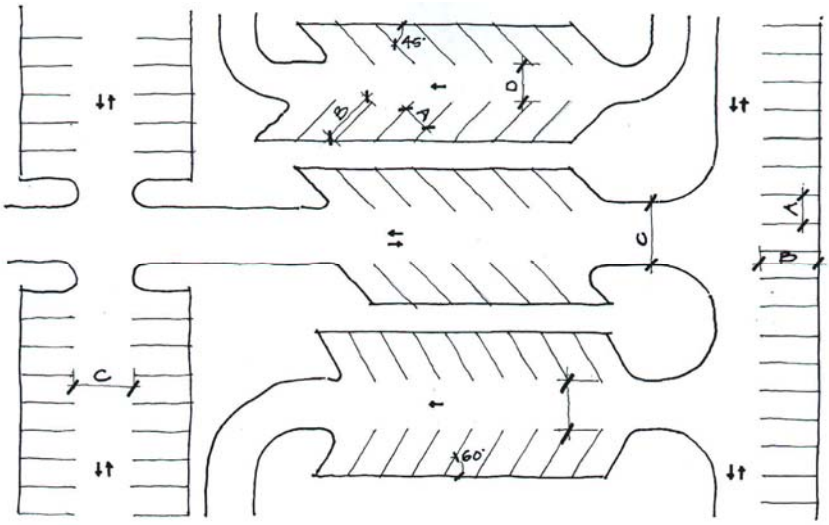


Figure 4– 2. *Parking drive aisle widths may vary depending on the configuration and angle of parking that the drive aisle supports.*

b. Parking Lot Limits

(1) No use shall provide more than 20% more than the parking required by Table 4-3.

(2) Any parking provided that is more than the parking required by Table 4-3 shall be designed with a pervious surface approved by the City.
(3) No off-street parking area in any area zoned for residential uses shall exceed 40 spaces.

4. Shared Parking

In meeting the requirements of Table 4-3 – Parking Schedule, adjacent uses may share parking under the following conditions and standards:

a. Adjacent landowners shall execute the necessary cross access easements to facilitate shared parking and record all easement documents with the Judge of Probate.
b. A written agreement for the joint use of parking facilities shall be executed by the parties and approved by the City.
c. Parking requirements shall be the cumulative requirements of the uses sharing the parking, except where different uses (Retail or Service, Office, Civic, or Residential) are located on the same or adjacent lot.
   (1) When two or more uses located on the same or adjacent lot have distinctly different hours of operation they may qualify for a reduction of required parking. One hundred percent of the required parking may be shared. Required parking shall be based on the use that requires the greatest amount of parking according to Table 4-3 – Parking Schedule.
   (2) If two or more uses located on the same or adjacent lot have distinctly different peak hours of operation, they may qualify for a reduction of required parking. Fifty percent of the required parking for each use shall be dedicated to only that use, while the other fifty percent may come from a pool of parking spaces shared by any use with distinctly different peak hours of operation.
d. All shared parking shall be located within reasonable proximity of main entrance of the building.
e. Direct pedestrian access to and from the building and the parking area is required.

5. Parking Credits

A credit may be given to the requirements of Table 4-3 – Parking Schedule, under the following conditions:

a. On-street parking within 300 feet of any lot line may be credited to the parking requirement at a rate of one credit for every two on-street parking spaces.
b. Bicycle parking facilities within reasonable proximity of the main entrance may be credited at a rate of one credit for every five-bicycle parking spaces, up to a maximum of 10% of the required vehicle parking.

6. Pervious Parking

a. Twenty-five percent (25%) of all parking spaces shall be constructed of a pervious material. Pervious materials used may include brick pavers, pervious asphalt, pervious concrete and other pervious materials to be approved by the City of Fairhope Planning and Building Director.
b. The pervious material shall be maintained following industry standards of no less than once per calendar year of per manufacturer's instructions if the manufacturer's requirements are more stringent. Failure to perform the required maintenance activities could result in enforcement action by the City.
c. Projects that require eight or less parking spaces are not subject to the twenty-five percent (25%) pervious parking requirement.

F. Stormwater Management

1. Intent

The intent of this section is to provide for stormwater management in site design. The primary management strategy should be infiltration of all runoff created by development through natural systems and constructed natural systems. Should infiltration not address stormwater management for

the site adequately, retention and detention of run-off will be required. This section also seeks to incorporate any stormwater management system into the design of the site as a natural or aesthetic amenity.

2. General Requirements

All site plans shall be designed with surface drainage provisions in accordance with the Fairhope Subdivision Regulations, construction, building, or grading permits, and any other City ordinance regarding the effects of stormwater. Developers shall take steps necessary to prevent run-off, which may have the potential for causing flood damage to neighboring property. The building inspector shall, in consultation with the city engineer, determine that reasonable provisions for properly handling surface drainage have been made in the applicant's design, and will report these findings for the Fairhope Planning Commission's consideration in acting on building applications. If reasonable provisions are not made in the applicant's design, the Fairhope Planning Commission shall make the remedies available to the applicant a condition of the approval, or deny the application. "Dry wells," biofilters, or other constructed infiltration systems may be required of sufficient capacity to receive up to four inches per hour rainfall on the paved area or areas required for off-street parking and loading. Rainfall intensity to be calculated on storm frequency determined by the commission and/or its consultants.

3. Design Standards

Storm water detention shall be screened from direct view from all abutting properties by installation and maintenance of living plants at least 36 inches in height at time of planting, and achieve a height of not less than six feet in three years after planting. Outer slopes of detention ponds shall not be steeper than four feet horizontal to one-foot vertical. Where water depth and time of detention is sufficient to require safety fencing, such fencing shall be installed behind required screening, on the pond side.

4. Alternative Designs

Standards of this ordinance and any standard of this ordinance that relates to the City of Fairhope Subdivision Regulations may be waived to provide for an alternative stormwater design system provided that:

a. The alternative stormwater design provides for an infiltration system that incorporates at least 80% of the runoff from impervious surfaces into the groundwater on the site and results in an overall reduction in impacts on streams in the watershed.
b. The alternative stormwater design addresses stormwater on an area-wide or watershed basis making stormwater management on individual lots within the site unnecessary.
c. Natural elements on the site are incorporated into a natural storm drain infrastructure minimizing or eliminating the need for detention ponds and other constructed storm drainage. Constructed elements of the natural drainage system shall be limited to artificial wetlands, bio-filters, and dry swales. To the extent that it does not damage the function of the natural drainage system, natural elements should serve additional community purposes such as trails or greenways, parks, or aesthetic screens.
d. Any waiver of standard to accommodate the alternative stormwater design proposes an equal or better alternative for meeting the intent of the waived standard.
e. The alternative stormwater design is accompanied by a plan produced by a registered engineer testifying to its accuracy and sustainability.
f. The alternative stormwater design plan included provisions for long-term maintenance and operation of the alternative design, including easements, covenants, restrictions, and an acceptable legal entity to oversee long-term maintenance.
g. The alternative stormwater design plan shall accompany a site plan for the entire development. The plan and any waivers to the standards of this ordinance shall be approved according to the procedures and standards for the site plan.

G. Signs

1. Intent

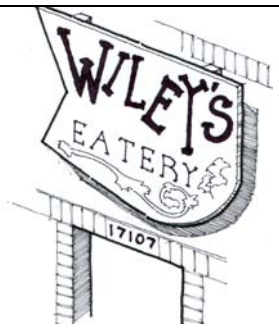
The intent of this section is to reinforce and enhance the perception of Fairhope as a unique and livable community, and to reflect the architectural resources and natural features of the community, in accordance with the Comprehensive Plan. To accomplish this, the standards shall govern the location, size, setback and height of signs for each of the use districts established in this ordinance, and for specific uses, in order to insure safe construction, light, air, and open space, to reduce hazards at intersections, to prevent the accumulation of trash, and to protect property values of the entire community.

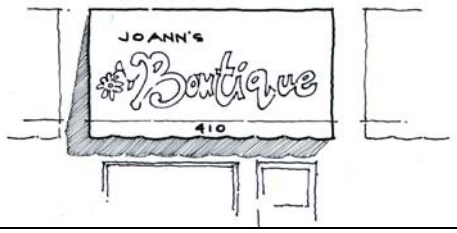
2. Sign types

The following Table 4-4: Sign Types identifies the categories, types and general description of signs permitted in the City. Any other type of sign not listed is prohibited.

Table 4-4: Sign Types

Sign category	Sign type	Description	Image
FREE-STANDING SIGNS	Monument sign	A permanent sign mounted on the ground and designed with a continuous structural element of approximately the same dimension from the ground to the top of the sign. Monument signs shall not exceed 8' in height (including associated structure)	
	Pole Sign	A permanent sign mounted on the ground, where the structural element is significantly more narrower that the sign. Pole signs shall not exceed 8' in height and the sign surface shall not exceed 16 square feet. Pole signs shall only be located near the entrance of a building.	

Sign category	Sign type	Description	Image
	Incidental Sign	Signs that direct patrons and citizens into or out of a site. These signs are intended merely to enhance the safe ingress and egress of pedestrians or vehicles.	
BUILDING SIGNS	Facade sign	A permanent sign mounted on or otherwise affixed to the side of a building and projecting no more than one foot from the surface it is mounted on.	
	Hanging Sign	A permanent sign mounted on or otherwise affixed to the side of a building and projecting in generally perpendicular to the surface it is mounted on. Examples of typical applications are under a canopy, or beside a door.	
	Window sign (greater than 20% of window opening)	A permanent sign applied to a window of a building but intended to be viewed and read from the exterior of the building.	

Sign category	Sign type	Description	Image
	Awning Sign	A permanent sign applied to the surface of an awning, which is affixed to a building structure.	

3. Sign Permits and Exceptions

a. It shall be unlawful to erect, alter or relocate any sign without first obtaining a sign permit. When a sign permit has been issued, is shall be unlawful to change, modify, alter or otherwise deviate from the terms of conditions of said permit without prior approval of the building inspector.

b. The following activities and signs shall not require a sign permit:

(1) the changing of advertising copy or message on signs, which are specifically designed for the use of replaceable copy;

(2) one general identification sign per building entrance such as a nameplate, street number, or occupant identification sign on common entrances, not to exceed six square feet;

(3) one on-site bulletin board or identification sign for public, charitable, educational or religious use not exceeding 32 square feet;

(4) symbolic flags or insignias limited to 50 total square feet in area;

(5) decorative flags, banners and bunting authorized by the city council for a citywide celebration, conventions or commemorations;

(6) memorial signs, tablets or cornerstones, names of buildings and date of erection when consisting of a cut masonry surface or when constructed of bronze or other noncombustible materials;

(7) up to four incidental signs or symbols (e.g. entrance, exit, caution, slow, no trespassing) located on and pertaining to a parcel or property not to exceed two square feet in area per sign;

(8) identification signs at the entrance drive of residences, estates, farms, ranches, and plantations, which do not exceed two square feet in area;

(9) Political signs may be placed on private property after the qualifying deadline for the election. A candidate shall remove his/her political signs from private property within five (5) days following the first to occur of:

(i) said candidate not winning a primary election or prevailing to a run-off in a primary election;

(ii) said candidate not winning a primary run-off election;

(iii) said candidate not winning a general election or prevailing to a run-off in a general election; or

(iv) the general election (provided, that the foregoing use of the term “general election” shall include a run-off in a general election).

(a) In residential zoning districts: political signs are not to exceed 4 square feet

(b) In all other zoning districts: political signs are not to exceed 16 square feet

(10) Real Estate / For Sale signs; one non-illuminated, double-faced, temporary, real estate for sale sign per street frontage not exceeding in face area:

(a) In residential zoning districts six square feet where the property being advertised has a front lot line of less than 500 lineal feet, or 16 square feet where the property being advertised has a front lot line of 500 lineal feet or more.

(b) In all other districts, 16 square feet.

(11) One construction sign per street frontage located on property where construction is actually in progress under a current building permit. This shall be a ground sign not to exceed 16 square feet for residential structures and 32 square feet for non-residential structures. This sign shall be removed before a certificate of occupancy is issued;

(12) Temporary signs may be placed on private property for a period no longer than 30 days; one temporary sign allowed per street frontage; no larger than 4 square feet per sign.
(13) Window signs which identify or advertise activities, services, goods or products available within the building and which collectively cover 20% or less of the window glass surface area;
(14) Signs incorporated on machinery or equipment at the manufacturer's or distributor's level, which identify or advertise only the product or service dispensed by the machine or equipment, such as signs customarily affixed to vending machines, newspaper racks, telephone booths, and gasoline pumps and do not exceed two square feet per piece of equipment;
(15) Directional and regulatory signs erected by an agency of government or any lawfully constituted utility;
(16) One (1) under-canopy sign per business not to exceed three square feet, not lower than eight feet clear above the walkway surface and not illuminated;

c. Signs with unusual structural features, or as deemed necessary by the Building Official, shall be designed, signed and certified by an Alabama registered engineer, who shall submit sufficient data to enable the building inspector to determine whether the sign complies with all applicable codes and ordinances:

d. A sign permit shall become null and void if the sign for which the permit was issued has not been completed within a period of six months after the date of issuance.

4. Sign Standards

a. *Permitted Signs for Residential Districts and Uses*
(1) No building signs are allowed in residential districts or for residential uses unless they are exempt from permits according to Section 3.b.
(2) Two freestanding signs are permitted for each subdivision, neighborhood, or complex entrance subject to the following:
(a) No sign area shall exceed 32 square feet;
(b) No sign and associated structure shall exceed seven feet in height;
(c) The total freestanding sign area for the entire subdivision, neighborhood, or complex shall not exceed 96 square feet;
(d) The sign and associated structure shall not create a physical or visual hazard. Multiple pedestrian-scaled signs and associated structures at all connection points of the subdivision, neighborhood, or complex are preferred over single monumental signs and structures at a primary entrance.
(e) An acceptable legal entity shall be provided to assure maintenance of the signs.

b. *Permitted Signs for Non-residential Districts and Uses*
(1) One building sign shall be allowed for each street frontage of each premise. Corner lots and double frontage lots may not transfer allowable sign area from one frontage to another.
(2) One freestanding sign shall be allowed for each street frontage of each premise. Corner lots and double frontage lots may not transfer allowable sign area from one frontage to another.
(3) Size - The aggregate surface area per lot for all permitted signs in all non-residential districts shall be limited to the following:
(a) One square foot for each two linear feet of building frontage;
(b) No more than 50 square feet per lot in any business district, with the exception of multi-occupancy lots or buildings
(4) Height and Projection -
(a) Free-standing signs shall not exceed 8 feet above natural ground level at the sign structure base.
(b) Building signs shall not extend higher than the building surface upon which they are mounted.
(c) Building signs shall not project more than 12 inches from the building surface upon which they are mounted.
(5) Multiple-occupancy lots or buildings - Where a single building or lot contains two or more separate activities or establishments, each activity or establishment shall be permitted a wall

sign area based on the portion of building occupied. The multiple-occupancy lot or building may be permitted one directory sign. The directory sign surface shall not exceed 10 square feet and the height shall not exceed 8 feet.

(6) Complex signs – Complexes such as shopping centers, special activity districts, or campuses, shall be allowed an additional 20 square feet of signage to identify the name or logo of the center, district or campus

(7) Gasoline Pricing Signs – One sign advertising the price of gasoline is permitted provided it shall not exceed 12 square feet per sign face and an aggregate area of 24 square feet. If freestanding, the sign shall not exceed 5 feet in height. This sign shall count toward the aggregate size permitted for the lot.

(8) Temporary Event Signs or Banners – A temporary event sign or banner may be allowed in addition to all permitted signs upon written application to the City. Permits are subject to the following limitations:
   (a) Permits shall be valid for a period no longer than 10 days;
   (b) Not more than one permit shall be issued for the same premises more frequently than twice each calendar year;
   (c) Signs shall not exceed 30 feet in horizontal dimension and the vertical height shall not exceed 6 feet.
   (d) No off-premises signs shall be permitted.
   (e) Permits shall specify the size and location of the signs. Any violation of the terms of the permit shall cause the permit to be immediately revoked.

(9) A-Frame Signs – In addition to a wall-mounted sign, A-Frame signs for a business are permitted subject to the following conditions:
   (a) A business owner who desires to utilize an A-Frame sign shall be required to apply for and obtain an Administrative Use Permit from the City of Fairhope Planning Director and/or his designee. There is no fee associated with this permit. As part of the application process, the Planning Director and/or his designee shall designate to the business owner the approved location for the placement of the A-Frame sign within the CBD.
   (b) An A-Frame sign may be located on private property or, if within the Central Business District, within the public right-of-way, provided they do not interfere with pedestrian movement or wheelchair access to, through, and around the site or obstruct ADA access. A minimum access width of three (3) ft. shall be maintained along all sidewalks and building entrances accessible to the public.
   (c) An A-Frame sign shall not encroach into required off-street parking areas, and may not be arranged so as to create site distance conflicts or other traffic hazards.
   (d) An A-Frame sign shall be utilized only during the regular hours of operation of the business or special event, and shall be removed during non-business hours.
   (e) The sign size for a rectangular A-Frame sign shall be four (4) ft. in vertical dimension and two feet, six inches (2’-6”) in horizontal dimension. The height of the sign shall be measured from the sidewalk grade to the sign when it is erect.
   (f) A-Frame signs are permitted for ground floor or street frontage tenants directly in front of the place of business, no more than 20’ from the building façade. Where numerous businesses are located within one building, one (1) Shared Multi-tenant A-Frame sign per street frontage may be used. Shared Multi-Tenant A-Frame signs shall meet the area and dimensional standards established in Article IV Section G.4(b)9.(e) in this amendment.
   (g) An A-Frame sign shall be professionally made and constructed of durable, weather-resistant materials such as aluminum, plastic, or wood-finished surfaces and shall be maintained in good condition throughout the term of the Use Permit.
   (h) If business is within the Central Business District and placement is desired on city right of way, as described in 9 (a), The applicant, at the time of application, shall submit a certificate of insurance which complies with the following criteria:
      1. Public liability insurance in an amount not less than $1,000,000.00 for injuries to each person, and in an amount not less than $1,000,000.00 for any one (1) occurrence.

2. Property damage insurance in an amount not less than $1,000,000.00 for damage to the property of each person on account of any one (1) occurrence.
3. Said policies shall name the City of Fairhope as additional insured and shall constitute primary insurance for the City, its officers, agents, and employees, so that any other polices held by the City shall not contribute to any loss under this insurance.
4. Policies shall provide for thirty (30) days prior written notice to the City of cancellation or material changes.

(i) The City reserves the right to remove forthwith a sign which causes any interference with vehicular traffic or pedestrian traffic or in the event of any emergency situation or interferes with any work that is to be performed upon the public sidewalk by or on behalf of the City.

5. Limitations

a. The following signs are expressly prohibited and subject to immediate removal:
   (1) any sign erected or painted upon a sloping roof, fence, tree, standpipe, fire escape, or utility pole.
   (2) any sign which is a copy or imitation of official traffic control signs.
   (3) signs, which flash or illuminate intermittently, revolve, and animated signs except time and temperature or public service signs.
   (4) signs, which emit visible smoke, vapor, particles, or odor.
   (5) signs with any lighting or control mechanism, which causes radio or television or other communication interference.
   (6) any sign placed on any public right-of-way
   (7) any sign attached or painted onto a vehicle, trailer, or portable system parked on or adjacent to public right-of-way for the principle purpose of advertising.
   (8) any tethered inflatable signs.
   (9) any off-site signs.

b. Other limitations
   (1) Signs in non-residential zoning districts shall not be located within 15 feet of a residential zoning district boundary.
   (2) Illuminated or neon signs shall not produce glare or reflection onto residential property.
   (3) All signs, which are no longer functional or are abandoned shall be removed or relocated at the owner's expense within 30 days.

H. Tree Preservation

On a site where a live Heritage Tree exists, the Planning and Building Director may grant up to a seven foot (7') administrative setback variance in order to protect and/or preserve an existing Heritage Tree as defined in Article IX, Section C. of this Ordinance.

The only types of Heritage Trees protected under this Ordinance shall include:

Various Oak Trees (Quercus Species), Cedar Trees, Cypress Trees, Magnolia Trees and any other unusual species identified as a desirable tree by the City Horticulturist.

In an effort to preserve the critical root areas for existing trees on public and private properties, trenching is not allowed within nine feet (9') of any property line. One may use a directional boring (Horizontal Directional Drilling – HDD) method of service installation within the 9' no-trenching setback.

Article V
Special Districts

A. PUD – Planned Unit Development
B. CBD – Central Business District Overlay
C. FH-1 Flood Hazard District
D. R-6 Manufactured Homes
E. AO – Airport Overlay
F. P-1 – Parking District
G. TR – Tourism Resort District
H. MO – Medical Overlay District

A. PUD – Planned Unit Development

1. **Intent -** The special standards listed in this section for the Planned Unit Development district are intended to:
   - encourage opportunities for development innovation tailored to a particular site, that while clearly furthering the goals of the comprehensive plan, could not explicitly be established by generally applicable standards or guidelines;
   - allow mixed-use development which offer a greater variety in type, design, and layout of buildings;
   - encourage land conservation, and more efficient use of open space;
   - permit modification of certain controls in a manner so as to produce large area development arranged to better serve community needs.

2. **Size –** A Planned Unit Development shall be a minimum of 3 acres.

3. **Uses –** The list of permitted uses shall be described and contained in the site plan accompanying each Planned Unit Development.

4. **Ordinance and Site Plan Required –** Each Planned Unit Development shall have an Ordinance that establishes the development of regulations for the district. In approving a Planned Unit Development, the ordinance shall reference the site plan, which shall prescribe development standards. The site plan after approval shall become part of the amending ordinance. All development shall be in conformance with the approved Site Plan and development regulations.

5. **Conditions Related to Approval** – In addition to the general criteria for zoning map amendments, a map amendment to the PUD district shall include review of the following conditions for compliance with the goals and intent of the Comprehensive Plan and this ordinance.
   a. Setbacks for building structures
   b. Public street access
   c. Vehicular traffic, circulation, connections, and parking
   d. Screening or buffer zones
   e. Hours of operation
   f. Activities or uses permitted on the property
   g. Building or structure heights
   h. Landscaping
   i. Maximum lot coverage, impervious percentages

j. Pedestrian circulation
k. Signs
l. Mitigation of noise, fumes, odors, vibration or airborne particles
m. Exterior lighting
n. Exterior construction materials
o. Special fire protection
p. Outside storage and display of merchandise
q. Refuse and waste storage
r. Lot size and dimensions
s. Accessory buildings
t. Drainage
u. Other information shown on the site plan

6. **Building Permit Compliance** – No building permit for any structure shall be issued, nor shall a Certificate of Occupancy be granted until the development plans are consistent with the site plan and development regulations of the approved Planned Unit Development. All building permits must be consistent with the Planned Unit Development.

7. **Planned Unit Development Amendments –** Changes or amendments to a Planned Unit Development shall be processed in the same manner as the original request. Slight changes in the detail of the Planned Unit Development that do not change the intent, meaning, relationship of structures to each other may be approved by the Director of Planning and Building.

B. CBD – Central Business District Overlay

1. **Intent –** The Central Business District overlay is intended to preserve downtown Fairhope as the "Regional Village Center" and focal point for the City. The CBD overlay shall provide an environment for shopping, restaurant and entertainment, cultural and artistic institutions, offices, governmental functions, and residential uses. The CBD is intended to have a unique character in the City and serve the entire community by:
   - generating high levels of pedestrian and bicycle traffic;
   - providing a mix of uses;
   - create a focal point for activities throughout the City;
   - link to adjacent areas and areas throughout the City through a variety of modes of transportation;
   - strengthen non-automobile connections to adjacent neighborhoods;
   - buffer surrounding neighborhoods from any adverse impacts of activities in the CBD; and
   - provide small parks and trails.

2. **Location and Size –** The CBD overlay includes: From one lot back (along the rear property line) from the South side of Morphy Avenue to one lot back from the North side of Oak Street and from one lot back from the East side of Bancroft Street to one lot back from the West side of Church Street.

3. **Uses –** All uses permitted in the underlying zoning district are allowed in the CBD Overlay, provided that uses of property shall meet the intent of the Comprehensive Plan and Section E.1 of this Article. Any future rezoning in the CBD overlay may be conditioned so that the goals and intent of the Comprehensive Plan and Article V., Section B.1. of the Zoning Ordinance are achieved.

4. **Dimension Standards –** All dimension standards for the underlying districts shall apply in the CBD overlay except as follows:
   a. Non-residential buildings in the CBD shall be built at the right-of-way line, unless a courtyard, plaza or other public open space is proposed.
   b. No side-setback is required for non-residential buildings in the CBD, except that corner lots shall have the same building line on the side street as is on the front street.
   c. Building heights for all non-residential structures shall not exceed 35 feet.

d. Parking -
   (1) No parking is required for non-residential uses in the CBD. If parking is provided, it shall be located behind the building, screened from public rights-of-way, and have a direct pedestrian connection to the primary building entrance of the public right-of-way.
   (2) Dwelling units in the CBD shall provide the required parking. It shall be located behind the building, screened from public rights-of-way, and have a direct pedestrian connection to the primary building entrance of the public right-of-way.
   (3) Residential and office is encouraged on the upper floors of buildings; lower floors are encouraged to be retail or restaurants.
e. Sidewalks shall be a minimum of eight feet (8') in width for all new construction.

C. FH-1 Flood Hazard District

1. Intent – The Flood Hazard District is intended to secure life and property from peril and damage of natural flood hazards, protect property values, and insure compliance with Federal flood insurance eligibility requirements.

2. Warning and Disclaimer of Liability – The degree of flood and erosion protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific methods of study. Larger floods may occur. This ordinance does not imply that areas outside the flood hazard district boundaries or land uses permitted within these districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the city or any City officer or employee for any flood damages that result from reliance on this ordinance or for any administrative decision made under this ordinance.

3. Location – The boundaries of the flood districts shall be determined by scaling distances on the official zoning map and/or the Federal Insurance Rate Map (FIRM). Where interpretation is needed as to the exact location of the boundaries of the district, the board of adjustment shall make the necessary interpretation. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the board and to submit his own technical evidence if he so desires.

4. Permitted Uses in FH-1 – Provided the use is in accordance with the Flood Ordinance of the City of Fairhope (Ordinance No. 1165) and are not prohibited by any other ordinance or any underlying zoning district, permitted uses and standards for this district follow:
   a. Agricultural uses such as general farming, pasture grazing, outdoor plant nurseries, horticulture, viticulture, forestry, sod farming and wild crop harvesting.
   b. Industrial-commercial uses such as loading areas, parking areas, and airport landing strips.
   c. Private and public recreational uses such as beaches, beach cabanas not suitable for use as dwellings, boardwalks and steps to permit access, pavilions and other similar small platforms, lifeguard stations, golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails, temporary structures for sale of food and refreshments, arts and crafts.
   d. Structures shall be constructed on fill, pilings or raised by other means so that the first floor and basement floor are elevated above the regulatory flood protection level. The fill shall be at a point no lower than one (1) foot below the regulatory flood protection elevation for the particular area, as determined by the agency specified in local, state or federal law to establish such elevations, and shall extend at such elevation at least ten (10) feet beyond the limits of any structure or building erected hereon.
   e. No use shall affect the capacity of channels or floodways of any stream, drainage ditch, or any other drainage facility or system.

D. R-6 Manufactured Home District

1. Intent – The intent of the standards for Manufactured Home Districts is to:

- Provide opportunities for affordable dwelling units;
- Allow construction of single-family housing that is an alternative to "stick-built" homes;
- Ensure design standards that result in neighborhoods equivalent to those enjoyed by other single-family home developments;
- Ensure location and design standards compatible with community goals and surrounding property.

2. Site Requirements

a. The development shall meet the stormwater requirements of the subdivision regulations.
b. A manufactured home development shall be on a site between two and four acres. Manufactured home developments may be larger than 4 acres only where the special design requirements in Section D.5. are met.
c. Where any boundary of a manufactured home development directly abuts a residential district or use, an 8-foot fence or wall, or an evergreen barrier approved by the City Horticulturist shall be provided.
d. Each development shall provide manufactured home spaces, and each space shall be clearly delineated. Each space shall have an area of not less than 3,200 square feet and a width of not less than 30 feet. The average width of all spaces shall be not less than 40 feet. Spaces may be platted as individual lots provided the Special Design Requirements in Section D.5. are met.
e. There shall be at least a 20-foot clearance between manufactured homes and between manufactured homes and any other structure.
f. All manufactured home spaces shall abut upon a driveway not less than twenty (20) feet in width, which shall have unobstructed access to a public street, alley or highway.
g. Walkways not less than two feet wide shall be provided from the manufactured home spaces to the service buildings.
h. All driveways and walkways within the park shall be hard surfaced and lighted at night with electric lamps of not less than 250 watts each, spaced at intervals of not more than 100 feet.
i. An electrical outlets supplying at least 100-115/220/250 volts, 100 amperes shall be provided for each mobile home space.

3. License – It shall be unlawful for any person to maintain or operate a manufactured home park within the corporate limits of the City of Fairhope, Alabama, without first obtaining a license.

a. License Fees and Temporary Permit Fees:
   (1) The annual license fee for each manufactured home park shall be set by the city council.
   (2) The fee for transfer of a license shall be five dollars.
b. Application for License:
   (1) Application for initial manufactured home development license shall be filed with the Director of Planning and Building. The application shall be in writing, signed by the applicant and shall include the following:
      (a) The name and address of the applicant;
      (b) The location and legal description of the manufactured home park;
      (c) A complete plan of the development in conformity with the requirements of this section;
      (d) Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the manufactured home development;
      (e) Other information required by the planning commission to enable it to determine if the proposed development will comply with legal requirements.
      (f) The application and all accompanying plans and specifications shall be filed in triplicate.
   (2) Upon application in writing by a licensee for renewal of a license and upon payment of the annual license fee, the city shall issue a certificate renewing the license for another year.
c. Revocation of License: The City of Fairhope, Alabama, may revoke any license to maintain and operate a manufactured home development when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this ordinance. After the correction of such condition and the payment of the penalties imposed by law and assurance given to the city council that such condition will not be repeated, the city council may issue a new license.

d. Posting and Temporary Permit: The license certificate or temporary permit shall be conspicuously posted in the office of or on the premises of the manufactured home development at all times.

4. Utilities, Public Services and Safety

a. Water Supply: Adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and manufactured home spaces within the park. Each manufactured home space shall be provided with a cold-water tap at least four inches above the ground.

b. Sewage and Refuse Disposal:

(1) Each manufactured home space shall be provided with a sewer line at least four inches in diameter, which shall be connected to receive the all wastewater. The sewer in each space shall be connected to discharge the manufactured home waste into a public sewer system in compliance with applicable ordinance or septic tank systems for each lot meeting all applicable design standards to prevent health hazards.

(2) Metal garbage cans with tight-fitting covers shall be provided in quantities adequate to permit disposal of all garbage and rubbish. No manufactured home space shall be more than 300 feet from a garbage can. The cans shall be kept in sanitary condition at all times. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to insure that the garbage cans shall not overflow.

c. Fire Protection: Fire protection shall be required to meet all regulations and conditions of other City codes and of the Fairhope Volunteer Fire Department.

d. Supervision: The licensee, or a duly authorized attendant, caretaker or association, shall be in charge at all times to keep the manufactured home development, its facilities and equipment in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with the licensee, for the violation of any provision of this ordinance to which the licensee is subject.

5. Special Design Requirements – Spaces in a manufactured home development may be platted as individual lots or may exceed 4 acres provided all of the following additional special design requirements are met:

a. The overall development is greater than 5 acres.

b. At least 15% of the project area is preserved as public or common open space. Open space shall be centrally located to the entire development and designed for community gathering.

c. An association is established for on-going maintenance of the grounds.

d. All dwelling units shall be oriented to a public street, including a front door or porch with a four-foot wide sidewalk connecting to the public sidewalk.

e. All dwelling units on a single street shall have the same setback from the public right-of-way. The front setback shall be between 20 and 30 feet. Side setbacks shall be a minimum of eight feet. Rear setbacks shall be a minimum of 20 feet.

f. Vehicle access to individual lots shall be by a rear lane. Parking spaces, carports, or garages shall be located behind the dwelling units.

g. No dwelling unit shall be more than two times longer in one dimension than it is any other dimension.

h. All dwelling units shall have a roof pitch of at least 4:12 and eaves that overhang the exterior walls by a minimum of one foot.

i. The overall gross density for the project, including open areas, shall not be greater than six units per acre.

j. All dwelling units shall have individually metered utility connections to public facilities for sanitary sewer and water.

E. AO – Airport Overlay

1. Intent and Authority – The Airport overlay promotes the health, safety, and general welfare of the public by preventing the creation and establishment of land uses incompatible with the operations of the Fairhope Municipal Airport and requiring the incorporation of outdoor-to-indoor noise attenuation measures for the construction of certain structures within the boundary of the Airport Overlay District Zone. The Airport Overlay is enacted pursuant to the authority granted by Title 4, Chapter 6, Section 1 through 15, Code of Alabama, 1975.

2. **Findings –** The City finds that certain land uses are incompatible with noise generated by aircraft using the Fairhope Municipal Airport and that these land uses have the potential to impair the existing and future utility of the Fairhope Municipal Airport and the public investment in the Airport. Accordingly, it is declared:
   a. That the establishment and construction of noise sensitive developments in the vicinity of the airport have the potential of limiting the existing and future utility of the airport and may adversely affect the region served by the Fairhope Municipal Airport;
   b. That noise sensitive developments in the vicinity of the airport have the potential to become land uses incompatible with airport operations over time and it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of incompatible land uses be prevented.
   c. The prevention of the creation or establishment of incompatible land uses, and the elimination, removal, alteration, and mitigation of incompatible land uses are public purposes.
   d. That land in the vicinity of the airport has the potential of being exposed to sound levels of 65 Ldn and higher.
   e. That the construction of certain noise sensitive developments in the vicinity of the airport should include outdoor-to-indoor noise attenuation features to ensure compatibility with existing and future noise levels.
   f. That the Fairhope Municipal Airport fulfills an essential community purpose.
   g. The Airport overlay promotes the implementation of modest measures that will prevent conflicts between future residential homeowners and the airport that could require expensive retroactive noise insulation programs, residential relocation programs, and restrictions on the efficient operation of the Fairhope Municipal Airport.

3. **Applicability –** The Airport overlay is applicable to all lands lying within the Airport Overlay District Zone, which is delineated on the Fairhope Municipal Airport Overlay Zoning Map adopted as part of the Airport Overlay District Zoning Ordinance of the City of Fairhope, Alabama.

4. **Noise Requirements -** Except as otherwise provided in this Ordinance, noise sensitive structures shall incorporate outdoor-to-indoor noise level reduction measures into the design and/or construction of the structure.
   a. Noise Attenuation Performance Standards – The performance standard for the level of sound attenuation for noise sensitive structures constructed in the Airport Overlay District Zone shall be equivalent to achieving an interior noise level of 45 dB (A-weighted) when the structure is exposed to an outdoor noise exposure level of 65 Ldn or higher.
   b. Noise Attenuation Methods – Noise reduction may be accomplished through design standards and/or construction materials. Noise attenuation design measures and materials are referenced in the City Standard Building Code of the City of Fairhope, as amended. In all cases, construction shall conform with the general requirements of the City Standard Building Code of the City of Fairhope as amended.
   c. Noise Attenuation in Noise Sensitive Commercial Structures – Only those portions of commercial structures associated with noise sensitive activities must incorporate noise level reduction measures sufficient to achieve an interior noise level of 45 dB (A-weighted) when the structure is exposed to an outdoor noise exposure level of 65 Ldn or higher.
   d. Architect or Engineer Review – An architect or engineer shall review the plans to determine if the building design complies substantially with the intent of the ordinance.
   e. Aviation Easement – The owner applying for approval to construct a noise sensitive structure or residential subdivision within the area under the Runway Approach Surfaces located within the Airport Noise Overlay District shall agree to grant to the Fairhope Airport Authority, without compensation, an aviation easement for the passage of aircraft and the right to cause in all airspace above the surface of the Grantor's property noise and other effects that may be caused by aircraft operating at the Fairhope Municipal Airport.

5. **Use Restriction** – Notwithstanding any other provisions of the Ordinance, no use shall be made of structures, land, or water within the Airport Overlay District Zone to:
   a. create physical or electrical interference with navigational signals or radio communication between the airport and aircraft;
   b. make it difficult for pilots to distinguish between airport lights and others, or result in glare in the eyes of pilots using the airport;
   c. create bird strike hazards; or

d. otherwise endanger or interfere in any way with the landing, take off, or maneuvering of aircraft intending to use the airport.

6. Nonconforming uses

a. *Regulations Not Retroactive:* The Airport Overlay shall not require the removal, soundproofing, or other change or alteration of any noise sensitive structure not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with continuance of a nonconforming use.

b. *Building Additions:* A non-conforming noise sensitive structure existing at the time this Ordinance is enacted may be extended or enlarged, provided the extension or enlargement to the structure meets the requirements of this Ordinance.

c. *Nonconforming Uses Abandoned or Destroyed:* Whenever the Director of Planning and Building determines that a nonconforming noise sensitive structure has been abandoned, or more than 50 percent destroyed, physically deteriorated, or decayed (based on assessed value), the rebuilding or repair of the structure shall comply with the requirements of this Ordinance.

7. Permits

a. *Building Permit Required:* No noise sensitive structure shall be constructed in the Airport Overlay District unless a permit has been applied for and granted by the Planning and Building Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to determine whether the resulting structure would conform to these regulations.

b. *Variances:* An application for a variance in the Airport overlay shall first be submitted to the Airport Authority. If the Airport Authority does not respond to the application within 15 days after receipt, the applicant may file an appeal with Board of Adjustments and Appeals. The Board of Adjustment and Appeals may act on its own to grant or deny the application

c. *Permit Application Requirements:* An application for a permit shall be accompanied by a plat or plan showing the location of the lot to be built upon and the location of the proposed structure; a certification from a registered architect, engineer, or acoustician that the plans for the structure include noise attenuation measures adequate to meet the requirements of this Ordinance; together with such other information as the Planning and Building Department may deem necessary to enforce properly the provisions of this Ordinance.

F. P-1 – Parking District

1. **Intent –** The Parking District designates one or more lots, parcels, tracts, or sites to be used exclusively for the parking of vehicles, either outdoors or indoors. Lands in the P-1 District shall not be used for the construction of any building or structure other than as specifically permitted herein.

2. **Uses –** Parking lots are the only use allowed in the P-1 Parking District. Parking garages may be permitted on appeal in the P-1 District, where the Board has determined the use to be compatible with other uses existing in the neighborhood. Lands occupied by buildings or structures shall not be designated P-1 while such buildings or structures exist. No parking garage shall exceed two (2) stories or thirty-feet (30') in height except upon approval of the planning commission.

3. **Lot Area, Width and Maximum Coverage –** None specified, except that all lots in the P-1 district shall comply with the intent and requirements regarding parking size, dimension, landscape, and site design standards of other zoning districts.

G. TR – Tourism Resort District

1. **Intent** – It is the purpose of this Article in creating a Tourism-Resort District ("TR District") to:
   - provide for large acreage under unified control to be planned and developed as a whole;
   - encourage the growth of resort-oriented residential and mixed-use properties around resort properties;
   - provide places for resort-type amenities coupled with proximately located hotel, residential and commercial uses;
   - promote a sustainable future, and encourage and develop connections between environmental quality and economic vitality;
   - provide for a mix of residential types that are designed to form a compact, compatible and stable neighborhood directed toward resort and tourism trade;
   - support the development of a comprehensive pedestrian network with linkages to and between residential and resort areas;
   - promote increased privacy by permitting private roadways within the TR District property;
   - promote the preservation and enhancement of existing natural landscape features and their scenic qualities;
   - create a zoning classification which allows flexibility and creative development concepts that would not be possible through conventional zoning regulations and allow for certain modifications and exemptions from existing subdivision and other regulations;
   - provide places for social interaction and recreation;
   - provide general merchandising convenience destinations for both residents and tourists; and
   - create development opportunities which encourage multiple use of recreational and other resort-type amenities by hotel guests as well as residents within the TR District.

2. **Size Requirements** – A TR District must initially contain at least 175 contiguous acres.

3. **Location Requirements** – At the time any real property is submitted for zoning as part of a TR District zoning classification, the following existing resort amenities must be situated within the real property being subjected to the TR District zoning classification or within two (2) miles of the real property being submitted to the TR District zoning classification:

   - An existing full-service hotel (*i.e.*, a hotel providing hotel room accommodations, on-site dining (with on-site kitchen), conference facilities and swimming pool) containing a minimum of 300 hotel rooms;

- at least one (1) 18-hole championship golf course with related facilities (driving range and other golf practice areas), a clubhouse (which shall provide food services and contain an on-site kitchen), swimming pool and tennis courts (which uses and facilities may be provided in the form of a private or semi-private club or pursuant to use agreements which require the approval of membership privileges and the payment of a membership fee and monthly dues and charges); and

- a marina.

The resort property containing the foregoing required resort attributes need not be located within the municipal limits of the City or otherwise subjected to the TR District zoning classification. The owner of the real property upon which such resort facilities described above are situated shall have the right (but not the obligation), in its discretion, to cause any of its property to be annexed into the municipal limits of the City at any time and to cause all or any portion of its property to be zoned as part of the TR District.

4. Residential Density Limitations - The overall gross density for all residential areas within a TR District shall be no greater than 3.5 units per gross acre within all of the acreage comprising the TR District.

5. Open Space Requirements - All TR Districts shall provide at least 20% open space and\or green space, as herein defined. As used herein, open space and/or green space may consist of any real property which is (a) part of a natural area, including tree and other preserves, lakes, beaches, walkways, walking trails, pedestrian ways, walkways, walking paths, creeks and other waterways, including wetland areas and ponds, and water areas which serve as retention, detention or similar holding basins and (b) any real property usable for active or passive recreational purposes, including, without limitation, play grounds, swim and tennis facilities, green or open areas, parks, golf course amenities such as golf course, fairways, greens, bunkers, driving ranges and other practice facilities but shall <u>not</u> include any rights-of-way.

6. Uses and Development Zones –

a. <u>Uses Allowed and Development Zones</u>.

(1) Uses Allowed -- Uses allowed within the TR District may include any and all of the following:

(i) Single-family attached and detached dwellings;

(ii) Multi-family residential dwelling units, senior living facilities, low-rise, mid-rise and a limited number of high-rise residential buildings (including condominiums);

(iii) Hotels, conference facilities, restaurants, bars, swimming pools, tennis courts, golf courses, club houses, country clubs and related amenities and facilities;

(iv) Specific office, retail and limited commercial uses as well as any of the foregoing uses which are combined with residential uses in the same building so long as the residential uses are located on the second and higher floors of such building; and

(v) Nature and recreational areas and facilities.

(2) Development Zones -- The following described development zones (collectively, the "Development Zones") are permitted within a TR District: (a) Recreation Zone; (b) Low-Rise Residential Zone, (c) Limited Commercial Zone, (d) Mid-Rise Residential Zone, (e) High-Rise Residential Zone and (f) Resort Zone. The Development Zones within a TR District *(i)* shall be established on the zoning map for such TR District, *(ii)* may be used only for the uses set forth

below applicable to each Development Zone and *(iii)* shall be subject to the dimensional and other standards and requirements established below for each Development Zone.

b. **Recreation Zone**. The following restrictions and limitations shall apply to all areas designated as a "Recreation Zone" on the zoning map for the TR District:

(1) *Permitted Uses* – Golf courses, golf driving ranges and golf practice facilities; tennis courts and related facilities; lakes, docks, boat launches, fishing and swimming piers and similar structures; pools, spas, swimming areas and related facilities; playgrounds; amphitheaters, performance and other social gathering venues and facilities; clubhouses, bathhouses, changing facilities, clubhouse-related restaurants and lounges, retail pro-shops and rental service facilities; fitness facilities, conference facilities, educational facilities, and maintenance and service facilities for any of the foregoing uses; similar uses and facilities related to the foregoing; natural areas, parks, playgrounds, picnic areas and shelters, trails, boardwalks, paths, walkways and pathways, landscaping, drainage, soil conservation, wetlands, creeks, waterway and other water areas, and conservation areas.

(2) *Dimensional Standards* -

(i) Height. Building Height not to exceed 45 feet.

(ii) Build-To Lines. 20 foot front; 15 foot rear and 5 foot sides.

(iii) Minimum Lot Size. None.

(iv) Parking. One parking space for each 500 square feet of gross heated and cooled floor area of any building.

c. **Low-Rise Residential Zone**. The following restrictions and limitations shall apply to all areas designated as a "Low-Rise Residential Zone" on the zoning map for the TR District:

(1) *Permitted Uses* – Attached and detached dwelling units (which includes, without limitation, cluster homes, patio homes, duplexes, multi-family units, apartments, condominiums, townhouses, and zero-lot line homes); accessory structures such as attached and detached garages with garage apartments (garage apartments will not count as a separate dwelling unit), swimming pools, tennis courts, tennis and pool equipment and maintenance facilities; congregated attached or detached dwellings requiring specialized services to be provided, including, but not limited to, independent senior housing, assisted senior housing and Alzheimer care facilities and nursing home facilities ("Senior-Oriented Communities"); associated services relating to Senior-Oriented Communities, including, but not limited to, health-care and medical facilities, laundry, dining and food preparation facilities, wellness and recreational facilities, retail and office facilities, storage and maintenance facilities and other uses and facilities commonly found in Senior-Oriented Communities; and any of the Permitted Uses allowed in the Recreation Zone.

(2) *Dimensional Standards* –

(i) Height. Building Height not to exceed 35 feet.

(ii) Build-To Lines.

a. Detached Dwellings: 5-foot front; 5-foot rear and 0-foot sides; provided, that (x) each lot shall have at least one (1) side property line which is at least 12 feet from the dwelling on the adjoining lot and (y) if access to a dwelling is provided via a lane or alley, there is no minimum rear build-to line for any garage constructed at the rear of a dwelling.

b. Attached Dwellings: 5-foot front; 5-foot rear and 0-foot sides; provided, that (x) there must be a minimum distance of 12 feet between buildings and (y) if access to a dwelling is provided via a lane or alley, there is no minimum rear build-to line for any garage constructed at the rear of a dwelling.

(iii) Minimum Lot Size. 2,100 square feet.

(iv) Parking. All uses other than Senior-Oriented Communities, two (2) spaces per dwelling unit; Senior-Oriented Communities, one (1) space per dwelling unit.

d. Mid-Rise Residential Zone. The following restrictions and limitations shall apply to all areas designated as a "Mid-Rise Residential Zone" on the zoning map for the TR District:

(1) *Permitted Uses* – Multi-family units, apartments, condominiums, townhouses; Senior-Oriented Communities; associated services relating to Senior-Oriented Communities, including, but not limited to, health-care and medical facilities, laundry, dining and food preparation facilities, wellness and recreational facilities, retail and office facilities, storage and maintenance facilities and other uses and facilities commonly found in Senior-Oriented Communities; and any of the Permitted Uses allowed in the Low-Rise Residential Zone and the Recreation Zone.

(2) *Dimensional Standards* –

(i) Height. Building Height not to exceed 55 feet; provided, however, that *(1)* if the Building Height of any buildings within the Mid-Rise Residential Zone may exceed 35 feet, then the Application for TR District zoning shall set forth the maximum number of dwelling units which may be developed within the Mid-Rise Residential Zone in buildings which exceed 35 feet in Building Height.

(ii) Build-To Lines. 20 foot front; 15 foot rear and 0 foot sides; provided that (x) there must be a minimum distance of 20 feet between buildings and (y) if access to a dwelling is provided via a lane or alley, there is no minimum rear build-to line for any garage constructed at the rear of a dwelling.

(iii) Minimum Lot Size. None.

(iv) Parking. All uses other than Senior-Oriented Communities, two (2) spaces per dwelling unit; Senior-Oriented Communities, one (1) space per dwelling unit.

e. Limited Commercial Zone. The following restrictions and limitations shall apply to all areas designated as "Limited Commercial Zone" on the zoning map for the TR District:

(1) *Permitted Uses* – Those retail, office and other uses which are set forth as permitted uses in Table 3.1 (Use Table) of the Zoning Ordinance in effect as of January 1, 2010 for all B-1, B-2, B-3a, B-3b and B-4 zoning districts; home occupations and convenience stores with gasoline service; attached single-family residential uses located above retail or office uses; and all Permitted Uses allowed in the Low-Rise Residential Zone and the Recreation Zone.

(2) *Dimensional Standards* –

(i) Height. Building Height not to exceed 45 feet.

(ii) Build-To Lines. 15 foot front; 10 foot rear and 0 foot sides; provided that there is a minimum distance of 10 feet between buildings.

(iii) Minimum Lot Size. None.

(iv) Parking. Two (2) parking spaces for each 1,000 square feet of gross heated and cooled retail and office floor area of any office or retail building; and two (2) parking spaces for each single-family dwelling unit.

(3) *Maximum Density* – No more than 108,000 gross square feet of non-residential floor area shall be allowed within all Limited Commercial Zones of the applicable TR District.

f. **High-Rise Residential Zone**. The following restrictions and limitations shall apply to all areas designated as "High-Rise Residential Zone" on the zoning map for the TR District:

(1) *Permitted Uses* – A limited number of high-rise multi-story residential attached dwelling units; any of the Permitted Uses allowed in the Mid-Rise Residential Zone, the Low-Rise Residential Zone and the Recreation Zone.

(2) *Dimensional Standards* –

(i) Height. Building Height not to exceed 100 feet; provided, however, that *(1)* not more than two (2) buildings total may be constructed at heights higher than 55 feet and *(2)* the Application for TR District zoning shall set forth the maximum number of dwelling units which may be developed within the High-Rise Residential Zone in buildings which exceed 55 feet in Building Height.

(ii) Build-To Lines. 20 foot front; 15 foot rear and 0 foot sides; provided, that there is a minimum distance of 20 feet between buildings.

(iii) Minimum Lot Size. None.

(iv) Parking. Two parking spaces for each dwelling unit.

g. **Resort Zone**. The following restrictions and limitations shall apply to all areas designated as "Resort Zone" on the zoning map for the TR District:

(1) *Permitted Uses* -- Full-service hotels; conference facilities; spas, swimming pools, tennis courts and other outdoor recreational areas and uses; marinas; accessory structures and accessory uses normally found in a hospitality development, including, without limitation, food services, gift and novelty shops, barber and beauty shops provided primarily for the convenience of visitors or patrons of the premises and contained within a principal building, maintenance facilities (including laundry and other maintenance facilities); restaurants, nightclubs, bars, taverns, day spas; and any of the Permitted Uses allowed in the Limited Commercial Zone (subject to the requirements of Paragraph e(3) of Section 6 of this Article), the Mid-Rise Residential Zone, the Low-Rise Residential Zone and the Recreation Zone.

(2) *Dimensional Standards* –

(i) Height. Building Height not to exceed 55 feet.

(ii) Build-To Lines. 15 foot front; 10 foot rear and 0 foot sides; provided, that there is a minimum distance of 10 feet between buildings.

(iii) Minimum Lot Size. None.

(iv) Parking. One (1) parking space for each hotel room.

h. **Additional Provisions**.

(1) The term "Building Height" as used herein shall mean 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 main roof structure of the building (but specifically excluding all other projections or articulations from such roof or building).

(2) Access to adjoining properties is not required.

(3) Build-To Lines are measured from the property lines of a lot and allow buildings and structures to be built up to the Build-To Lines. Build-To Lines only apply to buildings/structures with covered roof. Canopies and awnings and second story porches, decks and balconies may overhang any of the Build-To Lines by up to 24 inches; provided, however, that in no event shall any such items overhang actual lot/property lines.

(4) If any uses within a Development Zone will utilize permitted uses from another Development Zone (*i.e.*, if within the Limited Commercial Zone, uses will include single-family uses allowed within the Low-Rise Residential Zone), then the dimensional standards for the other Development Zone (*i.e.*, the Low-Rise Residential Zone) will be applicable to such use.

7. **Private Streets and Adjacent Property Connectivity -** An applicant may request that all or any portion of the streets and roadways within the TR District property be private streets. Such request shall be set forth in the Application for TR District zoning. Any request for private streets within any portion of a TR District must be approved by the City. No access to and from the TR District property and any adjoining property shall be required.

8. **Modification of Subdivision and Other Regulations of City –** The TR District zoning classification is intended to encourage the development of land as part of a planned community, encourage flexible and creative development concepts of site planning, preserve the natural amenities on the land by encouraging scenic and functional open space, accomplish a more desirable environment than would be possible through the strict application of zoning and subdivision regulations, and provide a stable environmental character compatible with surround areas. Accordingly, the Application may propose provisions which alter, amend or otherwise exempt the TR District property or portions thereof from certain provisions of the City's Subdivision Regulations and other regulations.

9. **Application Requirements for TR District Zoning** – In lieu of any other provisions of the Zoning Ordinance, in order to request the zoning of property to a TR District classification, an applicant shall submit an application (the "Application") for TR District zoning to the City, which Application shall include the following:

a. **Legal Description**. A legal description of the property for which TR District zoning is requested.

b. **Zoning Map**. A zoning map which shall reflect the general areas of proposed development by Development Zone (established pursuant to Section 6(b) above). Proposed or existing major roads, if known, within the subject property shall be reflected on the zoning map as well as any major arterial roads lying adjacent to the property. The zoning map need not reflect individual lots or blocks or streets to be developed within the Development Zones of the TR District property.

c. **Maximum Residential Density**. The maximum number of residential dwelling units (density) allowed within the proposed TR District.

d. **Maximum Density Allowed in Limited Commercial Zone**. The maximum gross square footage of non-residential floor area allowed within the Limited Commercial Zones of the proposed TR District.

e. **Open Space or Green Space Requirements**. The open space or green space requirements which shall apply to the entire TR District Property as a whole (expressed as a percentage of the total acreage within the proposed TR District property).

f. **Quantitative Data Regarding Size of Each Development Zone**. Quantitative data indicating the approximate acreage within each Development Zone within the proposed TR District property.

g. **Private Streets**. If private streets will be utilized, a general description of which streets will be private and whether any gates or other limited access devices will be utilized for such private streets. The Application should also specify who will be responsible for maintaining all private roads or streets within the proposed TR District property. If private streets will be utilized, access easements over such private streets will be granted for public emergency vehicles (i.e., police, fire and ambulance), utility vehicles (for maintenance and repair and meter reading, etc.), garbage collection vehicles and all other governmental vehicles and employees in connection with the performance of their required governmental services.

h. **General Description of Restrictive Covenants**. A general description of any proposed restrictive covenants to be placed upon the TR District property.

i. **Permitted Uses and Dimensional Standards for Development Zones**. Any permitted uses and dimensional standards for any Development Zone which are different from those set forth herein.

j. **Request for Exemptions**. Any requests for an exemption from the provisions and requirements of the City's Subdivision Regulations or any other ordinances or regulations of the City.

k. **Storm Water Management Plan**. A storm water management plan for all of the property within such TR District, which storm water management plan shall be implemented by the applicant in the manner and in accordance with the requirements set forth in said storm water management plan. The storm water management plan shall comply in all respects with the City's storm water management regulations as set forth in the City's Zoning Ordinance and Subdivision Regulations, subject to any exemptions or modifications thereto set forth in the City-approved Application or the storm water management plan attached to said Application. In addition, such storm water management plan must satisfy all state and federal regulations and requirements.

l. **Traffic Study**. A traffic study for the property within the TR District, which traffic study and the recommendations and requirements set forth therein shall be implemented by the applicant in the manner and in accordance with the time table set forth in said traffic study.

m. **Miscellaneous Matters**, The Application shall contain such other terms and provisions as agreed to by the developer and the City.

n. **Review and Approval of Application**. Following submission of the Application to the City, the Application shall be subject to review and approval by the City in accordance with the terms and provisions of Section C(1) of Article II of the Zoning Ordinance. To the extent set forth as an exemption or exception in the Application approved by the City, the provisions of the Application shall supersede anything to the contrary set forth in the City's Zoning Ordinance, Subdivision Regulations and any other ordinances or regulations of the City.

10. Additions to TR District – Additional properties may be added to any TR District at any time and from time to time by filing an amendment to the original Application. Such amendment shall specify the Development Zones within the additional property being added to the TR District. The addition of additional property to a TR District must be approved in the manner set forth in Article II of the Zoning Ordinance. To the extent any additional properties are added to any TR District, the City may require different development criteria including, without limitation, the requirement that roads and streets be public, from those set forth in the original Application for the TR District previously approved by the City.

11. **Amendments** – Changes or amendments to any Application for TR District zoning shall be processed in the same manner as the original request; however, the following changes to an Application may be made with the approval of the Director of Planning and Building for the City or any other individual employee of the City designated by the City's Planning and Building Director to act on his or her behalf: (a) any Development Zone may be shifted, enlarged or reduced by not more than 200 feet in any direction and (b) slight changes may be made in the detail of the Application for TR District zoning that do not change the intent, meaning, dimensional standards and other major aspects of the Application for TR District zoning may be approved by the Director of Planning and Building.

12. **Other Regulations Not Applicable** – It is the intent that the Application for TR District zoning set forth development criteria applicable to the property and that flexibility be allowed in the construction of improvements thereon. Accordingly, except as set forth in the Application and in this TR District zoning classification, no other provisions of the Zoning Ordinance shall be applicable to the property which is zoned as a TR District.

13. **Building Permits** – The developer of the TR District shall proceed with the development of the property in accordance with the Application and no further approvals shall be required except as set forth herein. Upon application for a building permit for the construction of improvements on any parcel within the TR District, if the City's Planning and Building Director or any other individual employee of the City designated by the City's Planning and Building Director to act on his or her behalf shall determine that the intended use of the improvements is a "Permitted Use" (as defined in this TR District zoning classification) and satisfies the dimensional standards within the applicable Development Zone of such TR District as set forth in the approved Application for such TR District, then a building permit shall be issued for such improvements.

14. **Changes to Ordinance** – Following the City's approval of an Application for TR District zoning, no subsequently adopted amendments to or modifications of the Zoning Ordinance (including subsequent modifications to this TR District zoning classification), no amendments to or modifications of the City's Subdivision Regulations and no other ordinances adopted by the City which alter, change, modify or amend any of the matters set forth in this Ordinance or which are set forth in the approved Application for TR District zoning shall be effective with respect to the real property described in such approved Application for TR District zoning.

15. **Utilities** – All utility lines within a TR District shall be located underground.

16. **Signage** – All signage within the TR District shall comply with the City's signage regulations set forth in the Zoning Ordinance in effect as of January 1, 2010.

H. MO-Medical Overlay District

1. **Intent** – The intent of the Medical Overlay (MO) District is to establish and provide for the logical expansion of medical office needs to accommodate the growing community and region. Medical uses vary in need and impacts on the community. The MO District is also intended to establish and accommodate highly-specialized, unique uses and development types related to the medical field and to accommodate additional specialized needs and growth of the medical field and community. It is the express intent of this MO district surrounding the existing medical center to be as generous as possible in permitted uses while at the same time maintaining a clean, attractive community that provides an extension of the medical office needs for medical practices and appropriate facilities for the medical community it serves. Property located within the MO District is permitted the use allowed by right of the underlying zoning district. The provisions relating to nonconformities in Article VII of the Zoning Ordinance shall apply to all properties within this MO District.

2. **Location** – By virtue of its location to an existing medical center (Thomas Hospital), it is intended that this district be allowed for future expansion to the following boundaries: North to parcels abutting the south side of Morphy Avenue, South to those parcels that are in the City of Fairhope abutting the north side of Greeno

Lane, East to parcels abutting the west side of Greeno Road, and West to parcels abutting the east side of South Ingleside Street.

3. District Classification – The following overlay district is hereby established: Medical Overlay District-MO. Uses and standards allowed in this district shall be as follows:

A. Permitted Uses: The following uses and structures are permitted in this district:
(1) Medical offices
(2) Hospitals and nursing homes
(3) Medical and dental clinics
(4) Laboratories for medical and dental uses
(5) Funeral homes
(6) Animal hospitals, provided the boarding of animals occurs in completely enclosed buildings
(7) Child and adult day care facilities and group home facilities
(8) Adult congregate living facilities
(9) Helistop in conjunction with hospitals
(10) Emergency services
(11) Parking structures
(12) Colleges and universities
(13) Vocational, trade or business schools with all associated uses including dormitory facilities related to the medical field
(14) Essential services
(15) Hospital related out-patient services (Ambulatory Surgery and Diagnostic Clinics)
(16) Independent Living Facilities
(17) Bed and Breakfast Facilities to accommodate families of patients
(18) Retail business which sell, lease and repair prosthetic or ambulatory devices used for patient rehabilitation, mobility or installation/modification of handicap unique support aids
(19) Places of Worship
(20) Mixed use with residential – The residential use shall make up at least 33% of the total area of the building and be located on the upper floors only.

B. Permitted Accessory Uses and Structures.
(1) Uses and structures which are customarily incidental and subordinate to permitted uses
(2) Such other uses as determined by the Zoning Official or his/her designee to be:
a. Appropriate by reasonable implication and intent of the district
b. Similar to another use either explicitly permitted in that district or allowed by special exception.

C. Uses Permitted Subject to Appeal and with Conditions.
(1) Commercial communication towers
(2) Detoxification centers and substance abuse centers associated primarily with the primary medical facility
(3) Retail, restaurant, personal services, branch banks, offices, conference facilities, clinics and similar workplace support uses when within any individual structure, gross floor area shall be limited to 10 percent of the total gross floor area
(4) Crematorium

D. Prohibited Uses and Structures.
(1) Any use or structure not specially, provisionally or by reasonable implication permitted herein.
(2) Automotive repair garages, pool halls and game rooms
(3) Gasoline or diesel filling stations shall not be located within 100 feet from in-patient care or treatment facilities

E. General Requirements.
Buildings shall comply with the following provisions:
(1) Buildings shall comply with all applicable Site Design Standards in Article IV of the Zoning Ordinance and all other applicable City regulations and review standards not specified in this section.

(2) Mixed-use buildings shall be vertically mixed in use. Retail uses shall be placed at street level.

F. Special Exceptions.

(1) Research and development
(2) Hotel
(3) Crematoria
(4) And any such other uses as deemed appropriate in the district by the Planning Commission. The Planning Commission shall review a proposed use at the time the special exception application is presented to the Planning Commission according to the submittal deadlines and meeting dates established by the Planning Commission.

G. Development Standards.

(1) The B-4 (Business and Professional District) development standards and area and dimensional requirements shall apply in this district:
(2) Any residential, hotel, dormitory, nursing home or convalescent use shall not exceed the density established for the R-5 (High Density Multi-Family Residential District) at a minimum lot area of 10,500 square feet for two dwelling units plus 4,100 square feet for each additional unit / 10 units per acre maximum.
(3) No building or portion of a building visible from a public street or right of way shall be exposed metal. A façade of some type or material shall be used to visually screen the metal from the public street or right of way.

Article VI

Village Districts

A. VRM – Village Residential Mix
B. NVC – Neighborhood Village Center
C. CVC – Community Village Center
D. Village Zoning Special Review Procedures

This Article contains Village Zoning Districts to more easily and more directly implement the vision and goals of the Fairhope Comprehensive Plan.

A. VRM – Village Residential Mix

1. Intent – The special standards listed in this section for the Village Residential Mix district are intended to:

- provide a mix of residential types that are designed to form a compact, compatible, and stable neighborhood;
- provide compact, walkable neighborhoods;
- provide development that supports the scale and character of existing neighborhoods;
- develop land use arrangements that consider the compatibility of adjacent activities;
- encourage design that enhances pedestrian interest and provides a pleasant and diverse pedestrian experience;
- provide places for social interaction and recreation;
- promote a sustainable future, and encourage and develop connections between environmental quality and economic vitality;
- create focal points in neighborhoods, such as parks, schools, parkways, street trees, and other amenities;
- support the development of artistic, cultural and recreational opportunities; establish and maintain neighborhoods with a sense of community and ties to neighborhood-based businesses;
- coordinate land use and transportation planning to ensure that the transportation system can accommodate potential travel demand;
- support the development of a comprehensive pedestrian and bicycle network with linkages to and between residential and commercial areas.

2. Location, Size and Density – A newly established VRM district shall be at least five acres. However, a smaller parcel may be rezoned VRM if it is contiguous to an existing VRM district or separated only by a public right-of-way, and all other standards and conditions for the VRM district as a whole are met. The overall gross density for a Village Residential Mix district shall be between 4.5 and 10 dwelling units per acre, subject to the following:

a. VRM districts between 4.5 and 6 dwelling units per acre shall provide at least 10% of the overall district as open space.
b. VRM districts greater than 6 but less than 8 dwelling units per acre shall provide at least 15% of the overall district as open space.
c. VRM district with 8 to 10 dwelling units per acre shall provide at least 20% of the overall district as open space.
d. Accessory dwelling units shall not count towards density requirements provided:

(1) accessory dwelling units shall have a maximum floor area of 750 square feet; and
(2) the owner of the lot shall be a resident of the primary dwelling unit or the accessory dwelling unit at all times.

3. Uses – Uses allowed in the VRM district are specified in Article III, Section B. A VRM district shall have at least 3 different types of dwellings in Table 3-1: Use Table subject to the following:

a. no more than 50% of the dwellings for the entire district may be of any one type listed in the use table;
b. no more than 70% of the dwellings for the entire district may be of any two types listed in the use table; and
c. at least 70% of the dwellings shall be within 1,980 feet of an intersection of two arterial streets. This distance shall be measured along public right-of-way or a public trail or greenway. (See Fairhope Subdivision Regulations for location and standards for arterial streets.)
d. Accessory dwelling units shall not count towards the requirements of this section.

4. Dimension Standards

Table 5-1 : VRM Dimension Table

Dimension Standard / Use type	Minimum lot width	Frontage Types Allowed (See Article IV., Section C. for design standards related to frontage types.)					Minimum Setback			Maximum Lot Coverage or Structure Size			
		Yard	Terrace	Courtyard	Stoop	Street front	Side	Street side	Rear	Principle Structure	Accessory Structure	Total Impervious	Max. Buildings Height
Dwellings													
Estate	100’ with a minimum total lot area of ½ acre	✓					20’	e	30’	20%	d	40%	35’
Single family	40’	✓	✓	✓	✓		6’	e	30’	40%	700 s.f.	65%	35’
Two-family	50’	✓	✓	✓	✓		6’ [a]	e	30’	40%	600 s.f.	65%	35’
Patio home	40’	✓	✓				0’ [b]	e	30’	50%	600 s.f.	65%	20’
Townhouse	24’	✓	✓	✓	✓	✓	0’ [c]	e	30’	60%	300 s.f.	75%	35’
Multiple-family / apartment	50’		✓	✓	✓	✓	10’	e	30’	65%	300 s.f.	75%	35’
Civic													
Elementary School	280’ with a minimum total lot size of 2 acres	✓					50’	50’	50’	50%	n/a	60%	35’
Place of Worship	140’ with a minimum lot size of 1 acre	✓	✓				30’	30’	50’	50%	n/a	70%	35’ [f]
Community Center	100’ with a minimum lot size of ½ acre	✓	✓				20’	20’	30’	50%	n/a	70%	35’
Service													
Bed and Breakfast	Bed and breakfast is a service use allowed in any dwelling structure in the VRM district. Dimensional standards shall be according to the dwelling structure type.												

a. Single family attached may have one side of the structure with a 0’ setback to allow each unit in a structure to be a separate lot.
b. Patio homes may have one side of the structure with a 0’ setback provided the other setback is at least 10’. Otherwise, the minimum side setback shall be 6’.
c. Townhouses may have a 0’ side setback to allow each individual unit in a structure to be a separate lot. However, no more than 8 units may be in a single structure, and all structures shall be separated by at least 12’.
d. Accessory structures on estate dwelling lots shall cover a maximum of 10% of the lot or be a maximum of 25% of the principle building footprint, whichever is less.
e. Side yards along a public right-of-way shall have the same setback for the principal structure as the front setback, except that the required street side setback in all cases shall never be more than 20’.
f. Steeples or other architectural features on Places of Worship may be up to 50’.

5. Site Design Standards – General site design standards contained in Article IV. apply to the VRM district in addition to the following specific site design standards.

a *Open space:* Refer to Article IV., Section A. for general open space design standards. The following additional open space standards apply in the VRM district:
(1) At least 80% of the dwellings should be within one mile of three different types of open space.
(2) At least 80% of the residential units should be within one mile from each category (natural and civic) of open space
(3) At least 80% of the residential units should be within 1980 feet of 1 or more types of open space.
(4) Off-site open space may count towards the requirements of this section if it is publicly accessible.
(5) Accessory dwelling units shall not count towards the dwelling unit percentage recommendations of this section.
(6) Distance shall be measured along public right-of-way or public trail or greenway.

Commentary

See Article IV., Section C. for a description, intent and goals of the streetscape. A defined streetscape is created by a ratio of height to width formed by buildings on opposite sides of the street. The width includes the width of the right-of-way and the depth of any private setback to the building façade. The height equals the average height of buildings along a block, or the height of the primary façade to any substantially recessed areas. See Figure 6-3 for diagrams relating to the streetscape and the proper ratio of height to width.

b. *Streetscape:* Refer to Article IV., Section C. for general streetscape design standards. The following additional streetscape standards apply in the VRM district:
(1) The average building line on opposite sides of the street shall not differ by more than 20 feet.
(2) The building line on an individual lot shall not differ by more than five feet from the building line of adjacent lots. *See Figure 6-1.*
(3) The building line on an individual lot shall not differ by more than five feet from the average building line on the same side of a single block.
(4) No more than two frontage types may be used on the same side of a single block. *See Figure 6-1.*
(5) The preferred height to width ratio for the streetscape (height of buildings: distance between facades on opposite sides of street) should be between 1:2 and 1:4, except in the case of single-family dwellings on arterial streets where a larger setback may create an appropriate transition for single-family

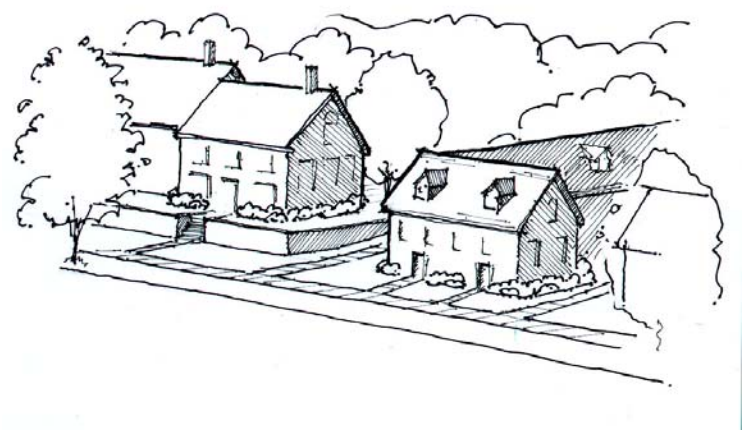


Figure 6-1. *This figure illustrates two different frontage types – a terrace and a yard – while still maintaining consistent setbacks (no greater deviation than 5 feet) on adjacent lots.*

dwelling units on higher-order streets. *See Figure 6-2*

(6) This section shall not apply to estate dwelling units or civic uses.

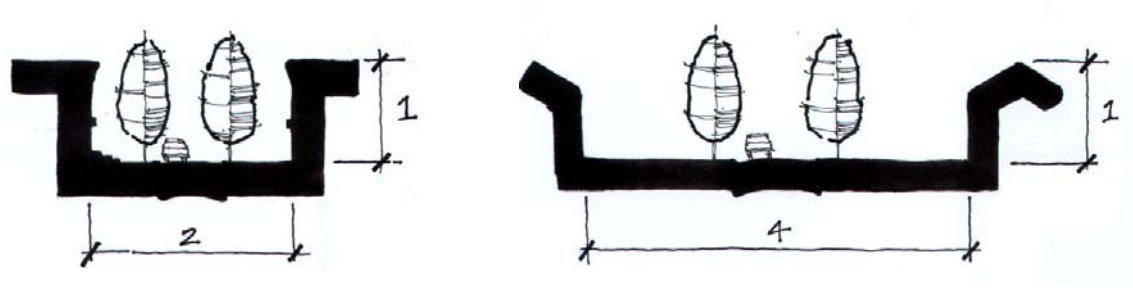
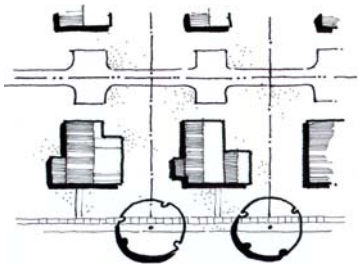


Figure 6-2. *This figure illustrates the ideal ratio of building heights that frame the streetscape to the total width of the streetscape area. Streetscapes closer to the 2:1 end of this range should be used as transitions near village centers.*

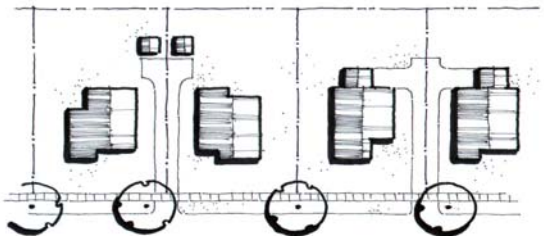
Commentary

Vehicular access on individual lots interrupts the pedestrian area of the streetscape. This conflict is exaggerated when accessing smaller compact lots. Therefore alternative vehicular access must be used when lots are narrow.

c. *Site Access:* Refer to Article IV., Section D. for general site access standards. The following additional site access standards apply in the VRM district:
   (1) Curb cuts on local streets shall be separated by a minimum of 60 feet.
   (2) Shared access driveways or rear access lanes shall be used on blocks with residential lots less than 60 feet wide. Shared access driveways require an easement to each lot owner indicated on the plat and recorded or granted by a separate deed instrument. *See Figure 6-3.*



Rear access lanes



Shared driveways

Figure 6-3. *Rear access lanes or shared driveways shall be used on all lots less than 60 feet wide.*

d. *Parking:* Refer to Article IV., Section E. for general parking standards. The following additional parking standards apply in the VRM district:
   (1) The maximum size of an off-street parking area for any use in the NVM district is 40 spaces.
   (2) All off-street parking in the NVM district shall be on the same lot as the use the parking serves, or on dedicated common area for a group of lots. Any parking on common areas shall be within 100 feet of the structure it is to serve
   (3) On-street parking may be used towards required parking according to Article IV., Section E.
   (4) All off-street parking areas shall be located behind buildings, except for estate dwelling units and single-family detached dwelling units.
   (5) All off-street parking shall be screened from adjacent lots according to Article IV., Section E.

e. *Building Design:* The following building design standards apply in the VRM district:
   (1) All structures shall have a primary entrance that faces the street.
   (2) All primary entrances, except for estate dwelling units, shall be connected to the public right-of-way by a sidewalk at least four feet wide, or by a similar pedestrian connection.
   (3) Garages shall be subject to the following:
      (a) Detached garages may be located behind the rear building line subject to dimension standards for the district.
      (b) Front entry garages shall be set back a minimum of 20 feet from the front building line containing the primary entrance. *See Figure 6-4.*
      (c) The portion of the facade used for front-entry garages shall be less than 50% of the reaming portion of the front facade producing at least a 2:1 ratio of living space to garage space on front facades.
      (d) Any front entry garage door shall be for a single vehicle. Multiple car front-entry garages shall require multiple single-entry doors. *See Figure 6-5*

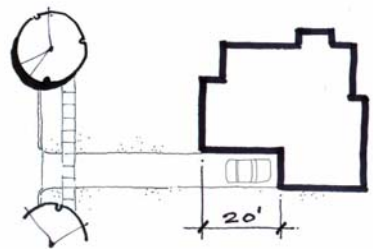


Figure 6-4. *Any front entry garage doors shall be set back at least 20 feet from the front building line where the primary entry of the house is located.*

Figure 6-5. *Only single entry doors are allowed if the garage is front loaded and facing the street.*

f. *Design Guidelines:* The following design elements are **recommended** in the VRM district:
   (1) Roofs - Pitched roofs are preferred. Buildings with a flat roof should incorporate a parapet or decorative cornice line.
   (2) Scale – Buildings should not exceed a height to width ratio of 1 to 2 without a variation in the building mass to break up the scale. Variations in building mass could include a setback in the facade between 18 inches and 3 feet. Any such variation should occur over at least 25% of the entire facade. *See Figure 6-6.*
   (3) Architectural Style – the architectural style and materials should be compatible on all sides of a building.
   (4) Entrances - All primary entrances should be articulated by any of the following design elements:
      (a) A single story porch at least eight feet deep and covering at least 50% of the facade;
      (b) A single story portico at least six feet deep and at least eight feet wide.
      (c) A stoop entry if a stoop frontage is used.
   (5) Openings – Window and door openings should be vertically oriented, however windows and doors should be grouped to have a similar orientation as the structure. All front facades should have between 15% and 30% of the façade occupied by windows or doors. *See Figure 6-7*
   (6) Diversity - Buildings should present diverse but consistent appearances. Consistency will be determined by the scale and mass of structures and diversity will be determined by variation of facade planes, roof lines, materials and colors used for external walls and trim. All materials should be consistent with the overall character of the neighborhood.

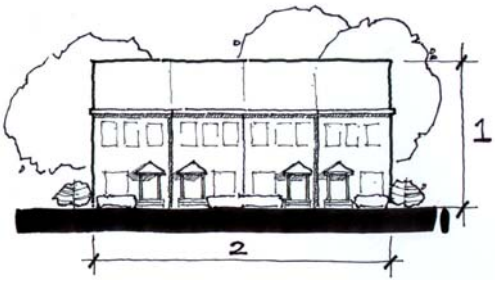


Figure 6-6. *Building facades that exceed a 2:1 width to height ratio must contain variations in wall planes.*

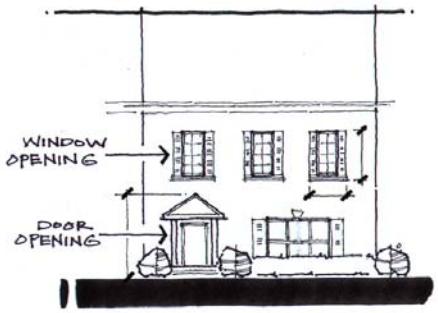


Figure 6-7. *All openings should be vertically oriented to reflect a pedestrian scale but may be grouped to form larger horizontal masses. Window and door openings provide contrast to the main wall and should occupy between 15% to 30% of the facade.*

B. NVC – Neighborhood Village Center

1. Intent – The special standards listed in this section for the Neighborhood Village Center district are intended to:

- provide convenience goods and personal services within an approximately 1-mile service radius;
- provide compact, walkable centers for neighborhoods;
- provide development that supports the scale and character of existing neighborhoods;
- develop land use arrangements that consider the compatibility of adjacent activities;
- encourage design that enhances pedestrian interest and provides a pleasant and diverse pedestrian experience;
- provide places for social interaction and recreation;
- promote a sustainable future, and encourage and develop connections between environmental quality and economic vitality;
- create focal points in neighborhoods, such as parks, schools, parkways, street trees, and other amenities;
- support the development of artistic, cultural and recreational opportunities; establish and maintain neighborhoods with a sense of community and ties to neighborhood-based businesses;
- coordinate land use and transportation planning to ensure that the transportation system can accommodate potential travel demand;
- support the development of a comprehensive pedestrian and bicycle network with linkages to and between residential and commercial areas.

2. Locations and Size

a. A newly established NVC district shall be between six and 18 acres. However, a smaller parcel may be rezoned NVC if it is contiguous to an existing NVC district or separated only by a public right-of-way, so long as the combined NVC district does not exceed 18 acres.

b. The NVC district shall have an overall non-residential floor area between 60,000 and 180,000 square feet. Residential uses do not count toward in this total.

c. Open requirements shall be as follows:

(1) A NVC district shall provide at least 5% of the area, excluding right-of-way, as open space.

(2) A NVC with more than 120,000 square feet of non-residential floor area shall provide at least 10% of the area, excluding right-of-way, as open space.

(3) A NVC with more than 12 overall acres shall provide at least 15% of the area, excluding right-of-way, as open space.

d. The NVC district shall be located on blocks at the intersection of two arterial streets, and on blocks immediately adjacent to a block at the intersection of two arterial streets, which is zoned NVC district.

3. Uses – Uses allowed in the NVC district are specified in Article III, Section B. A NVC district shall have at least three different categories of uses in Table 3-1: Use Table, subject to the following:

a. Mixed-use buildings shall be allowed and encouraged.

b. Residential units

(1) Dwelling units, which are accessory to a non-residential use, shall have a maximum floor area of 750 square feet. The resident of the accessory dwelling shall be the owner of the principle structure or the tenant operating the non-residential use in the principal structure.

(2) Dwelling units as a principal use or in mixed-use structures shall be subject to the following:

(a) all dwelling units shall have an individual entrance or common entrance that is separate from entrances for non-residential uses.

(b) each dwelling unit shall have at least one off-street parking space within 100 feet of the residential entrance.

c. Drive-through uses are allowed only if the drive through lanes is limited to the rear and one side of the building and all other special conditions for the NVC district are met.

4. Dimension Standards

Table 5-2: NVC Dimension Table

Dimension Standard / Use type	Lot width	Frontage Types Allowed (See Article IV., Section C. regarding design standards for frontage types.)					Minimum Setback			Maximum Lot Coverage or Structure Size				
		Yard	Terrace	Courtyard	Stoop	Street front	Side	Street side	Rear	Principle Structure	Accessory Structure	Parking and Driveway	Total Impervious	Max. Building Height
Dwellings														
Townhouse	24' to 30'	✓	✓	✓	✓	✓	0'[a]	b	30'	65%	300 s.f.	30%	80%	35'
Multiple-family / Apartment	25' to 150'		✓	✓	✓	✓	0' to 10'	b	30'	70%	300 s.f.	30%	80%	35'
Mixed-use	Same as nonresidential lots and structures													
Non-residential														
All uses from the Civic, Retail, Service, and Office categories	none specified	c		✓		✓	none	b	15'	85%	not allowed	50%	85%	35'

a Townhouses may have a 0' side setback to allow each individual unit in a structure to be a separate lot. However, no more than 8 units may be in a single structure, and all structures shall be separated by at least 12'.
b Side setbacks along right-of-ways shall be the same as the front building line.
c The only non-residential uses that permit a yard frontage in the NVC district are uses from the Civic category.

5. Site Design Standards – General site design standards contained in Article IV. apply to the NVC district in addition to the following specific site design standards.

a. *Open space:* Refer to Article IV., Section A. for general open space design standards. The following additional open space standards apply in the NVC district:
   (1) Each block shall contain a courtyard(s) or plaza(s) covering at least 5% of the block, bordering a public right-of-way on its longest side. *See Figure 6-7.*
   (2) Blocks that border on a block with a green, plaza, or small park covering at least 40% of the block and bordering a public right-of-way on at least 2 sides are exempt from Section 5.a.(1) above. *See Figure 6-8.*
   (3) Blocks that border or contain a greenway connecting the non-residential center of the village to surrounding neighborhoods are exempt from Section 5.a.(1) and (2) above. *See Figure 6-8.*
   (4) The overall area of open space shall meet the requirements of Section B.2.b. above and be designed according to the guidelines of Article IV., Section A.

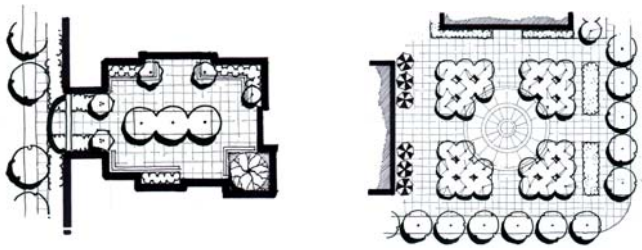


Figure 6-7. *All blocks shall have at least 5% of the block publicly accessible open space such as courtyards or plazas.*

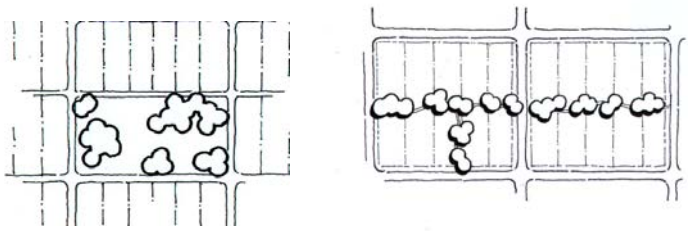


Figure 6-8. *Blocks bordering a block with a green or a plaza covering at least 40% of that block or blocks that provide parts of a trail or greenway system are not required to provide 5% of the block as publicly accessible open space.*

b. *Streetscape:* Refer to Article IV., Section C. for general streetscape design standards. The

following additional streetscape standards apply in the NVC district:

(1) The average building line on opposite sides of the street shall not differ by more than 20 feet.
(2) The building line on an individual lot shall not differ by more than 5 feet from the building line of adjacent lots, except that courtyards and plazas created by setbacks that exceed five feet are encouraged. *See Figure 6-9.*
(3) No more than two frontage types may be used on the same side of a single block.
(4) The preferred streetscape width to building height ratio should be between 1:1 and 3:1. *See Figure 6-10.*
(5) This section shall not apply to structures for Civic uses.

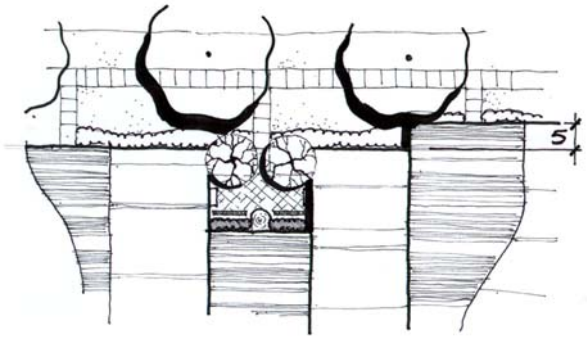


Figure 6-9. *Adjacent buildings, whether separated or connected common walls should not differ in front setback by more than 5 feet except for the purposes of forming a courtyard.*

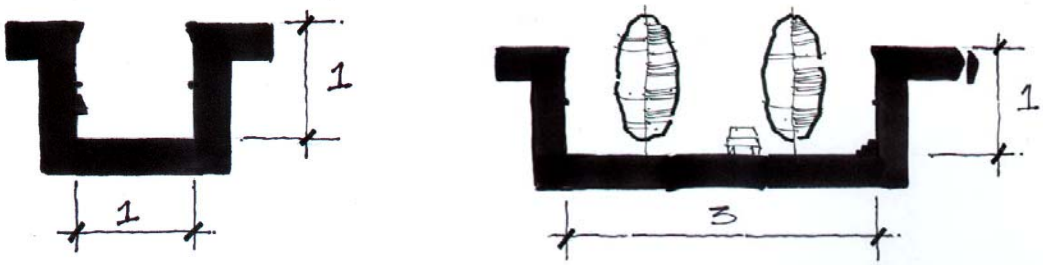


Figure 6-10. *This figure illustrates the ideal ratio of building heights that frame the streetscape to the total width of the streetscape area. Streetscapes closer to the 1:1 end of this range should be used only on secondary streets in the village centers.*

c. *Site Access:* Site access shall be according to Article V. of the Fairhope Subdivision Regulations.

d. *Parking:* Refer to Article IV., Section E. for general parking standards. The following additional parking standards apply in the NVC district:

(1) All off-street parking shall be located behind the front building line, and parking not located behind the rear building line shall be screened from the right-of-way by a two and one-half to four foot wall or opaque landscape screen extended at the front building line. *See Figure 6-11.*
(2) The maximum size of an off-street parking area for any use or group of uses is 50 spaces. No block shall have more than 30% of the area dedicated to off-street parking.
(3) No parking lots shall be located on the corner of blocks.
(4) Parking totals shall be based on the parking schedule in Article IV., Section E. for all uses proposed in the NVC district. Reductions in the required parking may be made from that cumulative total according to the standards of that section.

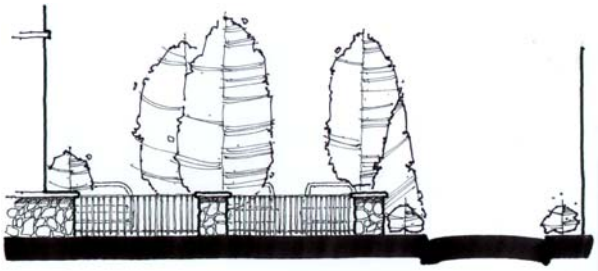


Figure 6-11. *Any parking on the sides of buildings near the public street shall be screened with a decorative fence or wall or landscape screen extended at the building line to continue the street wall formed by the building line.*

e. *Building Design:* The following building design standards apply in the NVC district:
   (1) All non-residential or mixed-use structures, except for civic uses, shall have a front building facade that occupies at least 75% of the lot width at the front building line. *See Figure 6-12.*
   (2) All buildings shall have a primary entrance that faces the street.
   (3) All primary entrances shall be connected to the public right-of-way by a sidewalk at least 5 feet wide.
   (4) Between 50% and 80% of ground level, street-facing facades of non-residential buildings shall be transparent with glazing. *See Figure 6-13.*
   (5) Between 25% to 60% of all street-facing facades and upper floor front facades shall be transparent with glazing. *See Figure 6-13.*

f. *Design Guidelines:* The following design elements are **recommended** in the NVC district:
   (1) *Uses* – The majority of ground level uses should be from the Retail category. Service and Civic uses are also acceptable on ground levels provided they are not more than 50% of the gross floor area. Office or Residential uses may be appropriate on ground levels in limited circumstances, but should generally be on upper levels of buildings.
   (2) *Roofs* – Roofs should be either pitched between 6:12 and 12:12 or be flat with parapets or decorative cornices. Roof mounted equipment should be screened from public view on all sides.
   (3) *Scale* – Buildings should not exceed a height to width ratio of 1:3 without a variation in the building mass to break up the scale. Variations in building mass could include an offset in the building height between 10% and 15%, or a setback in the facade between three and six feet. Any such variation should occur over at least 25% of the entire facade. *See Figure 6-14.*
   (4) *Architectural Style* – All buildings should include a base, body, and crown. Transitions between these areas should occur at floor changes or at the cornice line of the roof. Transitions should be created by material or color changes or the use of ornamental features. The architectural style and materials should be consistent on all sides of a building.
   (5) *Building Height* – Building heights should not differ by more than 15% on a single block, except that taller buildings that anchor a corner may not be considered in calculating the block average. *See Figure 6-15.*

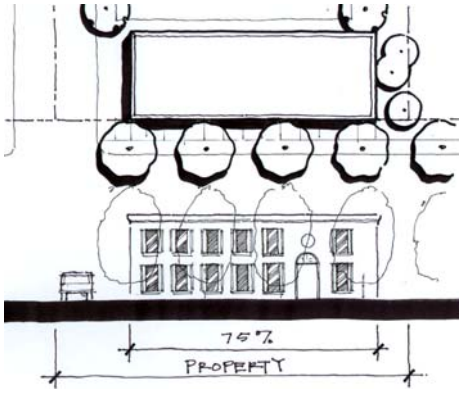


Figure 6-12. *Building facades shall occupy at least 75% of the lot frontage at the front building line.*

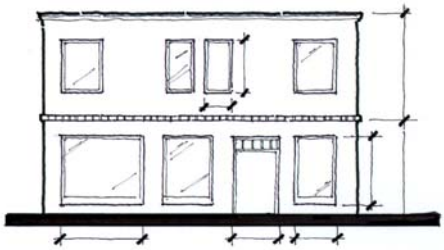


Figure 6-13. *Ground level facades between 50% and 80% transparency, and upper level facades between 25% and 60% transparency.*

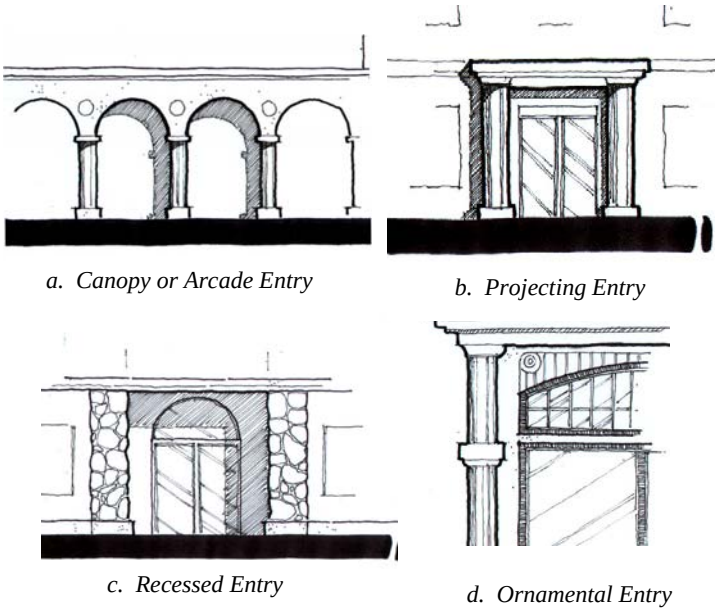
Figure 6-14. *Long building facades should use variations in building mass while still presenting a consistent streetscape.*

Figure 6-15. *Height deviations buildings along a single block should be small except that taller buildings may anchor corners of blocks.*

(6) *Entrances* – All primary entrances should be articulated by any of the following design elements:
   (a) a canopy or arcade; *See Figure 6-16a.*
   (b) an entrance projecting from the façade no more than 3 feet; *See Figure 6-16b.*
   (c) an entrance recessed from the front façade between 3 and 5 feet; *See Figure 6-16c.*
   (d) a combination of ornamental architectural molding and windows such as transom windows. *See Figure 6-16a.*

(7) *Openings* – Window and door openings should be vertically oriented, however windows and doors should be grouped to have a similar orientation as the structure. Building entrances should occur a minimum of every 50 feet along street frontages. *See Figure 6-17.*

(8) *Diversity* – Buildings should present diverse but consistent appearances. Changes in material, color or relief areas are acceptable when used as accents to the primary materials, color, and wall. Use of visual features such as awnings, ornamental doors and windows, and architectural details are encouraged to create diversity.



a. Canopy or Arcade Entry *b. Projecting Entry*

c. Recessed Entry *d. Ornamental Entry*

Figure 6-16 a-d. *Demonstrates the different types of entry treatments that help add variety and animation to buildings along the streetscape.*

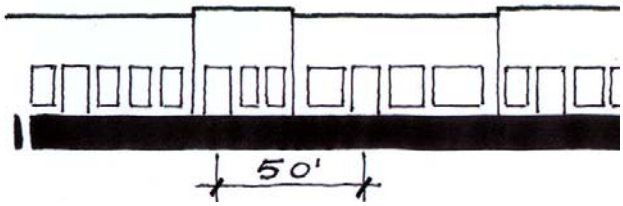


Figure 6-17. *Building entrances should occur at least every 50 feet.*

C. CVC – Community Village Center

1. Intent – The special standards listed in this section for the Community Village Center district are intended to:

- provide general merchandise and convenience destinations for residents within a two to three-plus mile service radius;
- to provide services and merchandise that complement the central business district;
- provide compact, walkable centers for neighborhoods;
- provide development that supports the scale and character of existing neighborhoods;
- develop land use arrangements that consider the compatibility of adjacent activities;
- encourage design that enhances pedestrian interest and provides a pleasant and diverse pedestrian experience;
- provide places for social interaction and recreation;
- promote a sustainable future, and encourage and develop connections between environmental quality and economic vitality;
- create focal points in neighborhoods, such as parks, schools, parkways, street trees, and other amenities;
- support the development of artistic, cultural and recreational opportunities; establish and maintain neighborhoods with a sense of community and ties to neighborhood-based businesses;
- coordinate land use and transportation planning to ensure that the transportation system can accommodate potential travel demand;
- support the development of a comprehensive pedestrian and bicycle network with linkages to and between residential and commercial areas.

2. Locations and Size

a. A newly established CVC district shall be between 10 and 40 acres. However, a smaller parcel may be rezoned CVC if it is contiguous to an existing CVC district or separated only by a public right-of-way, provided that the combined CVC district does not exceed 40 acres.

b. The CVC district shall have an overall non-residential floor area between 100,000 and 350,000 square feet. Residential uses do not count toward in this total.

c. Open space requirements shall be as follows:

(1) A CVC district shall provide at least 10% of the area, excluding right-of-way, as open space.

(2) A CVC district with more than 200,000 square feet of non-residential floor area shall provide at least 15% of the area, excluding right-of-way, as open space.

(3) A CVC district with more than 20 overall acres shall provide at least 15% of the area, excluding right-of-way, as open space.

d. The CVC district shall be located on blocks at the intersection of two arterial streets capable of handling heavy traffic, and on blocks within 800 feet of the intersection of two arterial streets that are adjacent to blocks zoned for a CVC District.

3. Uses – Uses allowed in the CVC district are specified in Article III, Section B. A CVC district shall have at least three different categories of uses subject to the following:

a. Mixed-use buildings shall be allowed and encouraged.

b. Residential units

(1) Dwelling units, which are accessory to a non-residential use, shall have a maximum floor area of 750 square feet. The resident of the accessory dwelling shall be the owner of the principle structure or the tenant operating the non-residential use in the principal structure.

(2) Dwelling units as a principal use or in a mixed-use structure shall be subject to the following:

(a) all dwelling units shall have an individual entrance or common entrance that is separate from entrances for non-residential uses.

(b) each dwelling unit shall have at least one off-street parking space within 100 feet of the residential entrance.

c. Drive-through uses are allowed only if the drive through lanes is limited to the rear and one side of the building and all other special conditions for the CVC district are met.

4. Dimension Standards – The dimension standards for the CVC district are the same as the NVC – see Table 5-2 in Section B.4.

5. Site Design Conditions – General site design standards contained in Article IV. apply to the CVC district in addition to the following specific site design standards.

a. *Open space:* Refer to Article IV., Section A. for general open space design standards. The following additional open space standards apply in the CVC district:
   (1) Each block shall contain a courtyard(s) or plaza(s) covering at least 5% of the block, bordering a public right-of-way on its longest side. *See Figure 6-18.*
   (2) Blocks that border on a block with a green, plaza, or small park covering at least 40% of the block and bordering a public right-of-way on at least 2 sides are exempt from Section 5.a.(1) above. *See Figure 6-19.*
   (3) Blocks that border or contain a greenway connecting the non-residential center of the village to surrounding neighborhoods are exempt from Section 5.a.(1) and (2) above. *See Figure 6-19.*
   (4) The overall area of open space shall meet the requirements of Section C.2.b. above and be designed according to the guidelines of Article IV., Section A.

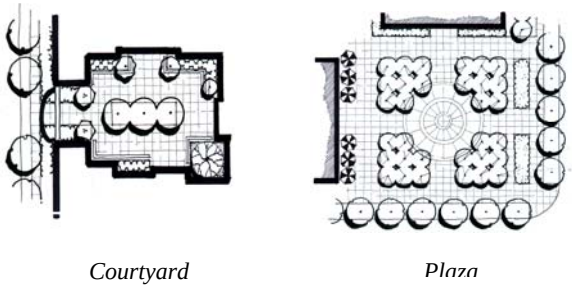


Figure 6-18. *All blocks shall have at least 5% of the block publicly accessible open space such as courtyards or plazas.*

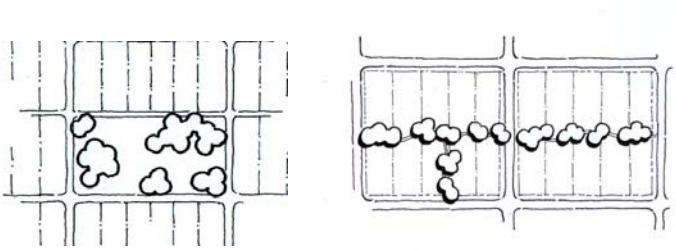


Figure 6-19. *Blocks bordering a block with a green or a plaza covering at least 40% of that block or blocks that provide parts of a trail or greenway system are not required to provide 5% of the block as publicly accessible open space.*

b. *Streetscape:* Refer to Article IV., Section C. for general streetscape design standards. The following additional streetscape standards apply in the CVC district:
   (1) The average building line on opposite sides of the street shall not differ by more than 20 feet.
   (2) The building line on an individual lot shall not differ by more than 5 feet from the building line of adjacent lots, except that courtyards and plazas created by setbacks that exceed 5 feet are encouraged. *See Figure 6-20.*
   (3) No more than two frontage types may be used on the same side of a single block.
   (4) The preferred streetscape width to building height ratio should be between 1:1 and 3:1. *See Figure 6-21.*
   (5) This section shall not apply to structures for Civic uses.

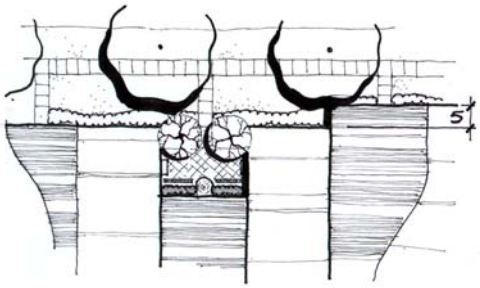


Figure 6-20. *Adjacent buildings, whether separated or connected by common walls, should not differ in front setback by more than 5 feet except for the purposes of forming a courtyard.*

Figure 6-21. *This figure illustrates the ideal ratio of building heights that frame the streetscape to the total width of the streetscape area. Streetscapes closer to the 1:1 end of this range should be used only on secondary streets in the village centers.*

c. *Site Access:* Site access shall be according to Article V. of the Fairhope Subdivision Regulations

d. *Parking:* Refer to Article IV., Section E. for general parking standards. The following additional parking standards apply in the CVC district:
   (1) All off-street parking shall be located behind the front building line, and parking not located behind the rear building line shall be screened from the right-of-way by a two and one-half to four foot wall or opaque landscape screen extended at the front building line. *See Figure 6-22.*
   (2) The maximum size of an off-street parking area for any use or group of uses is 125 spaces. No block shall have more than 45% of the area dedicated to off-street parking.
   (3) No parking lots shall be located on the corner of blocks.
   (4) Parking totals shall be based on the parking schedule in Article IV., Section E. for all uses proposed in the CVC district. Reductions in the required parking may be made from that cumulative total according to the standards of that section.

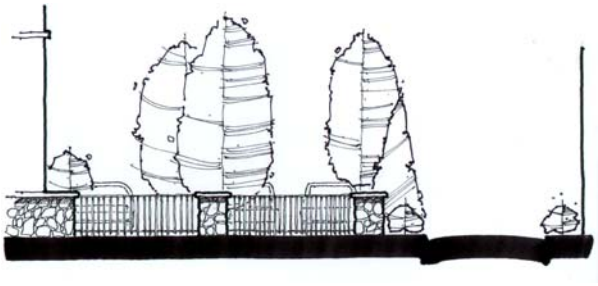


Figure 6-22. *Any parking on the sides of buildings near the public street shall be screened with a decorative fence or wall or landscape screen extended at the building line to continue the street wall formed by the building line.*

e. *Building Design:* The following building design standards apply in the CVC district:
   (1) All non-residential or mixed-use structures, except for civic uses, shall have a front building facade that occupies at least 75% of the lot width at the front building line. *See Figure 6-23.*
   (2) All buildings shall have a primary entrance that faces the street.
   (3) All primary entrances shall be connected to the public right-of-way by a sidewalk at least five feet wide.
   (4) Between 50% and 80% of ground level, street-facing facades of non-residential buildings shall be transparent with glazing. *See Figure 6-24.*
   (5) Between 25% to 60% of all street-facing facades and upper floor front facades shall be transparent with glazing. *See Figure 6-24.*

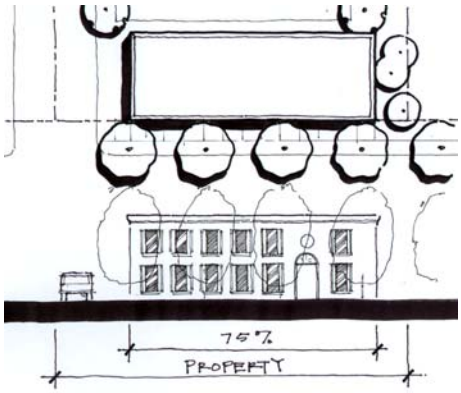


Figure 6-23. *Building facades shall occupy at least 75% of the lot frontage at the front building line.*

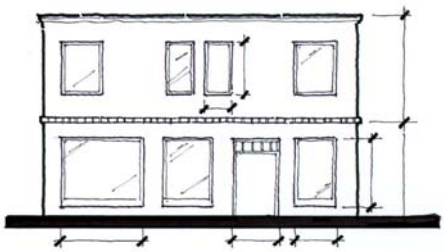


Figure 6-24. *Ground level facades between 50% and 80% transparency, and upper level facades between 25% and 60% transparency.*

f. *Design Guidelines:* The following design elements are **recommended** in the CVC district:
   (1) *Uses* – The majority of ground level uses should be from the Retail category. Service and Civic uses are also acceptable on ground levels provided they are not more than 50% of the gross floor area. Office or Residential uses may be appropriate on ground levels in limited circumstances, but should generally be on upper levels of buildings.
   (2) *Roofs* – Roofs should be either pitched between 6:12 and 12:12 or be flat with parapets or decorative

cornices. Roof mounted equipment should be screened from public view on all sides.

(3) *Scale* – Buildings should not exceed a height to width ratio of 1:3 without a variation in the building mass to break up the scale. Variations in building mass could include an offset in the building height between 10% and 15%, or a setback in the facade between three and six feet. Any such variation should occur over at least 25% of the entire facade. *See Figure 6-25.*

(4) *Architectural Style* – All buildings should include a base, body, and crown. Transitions between these areas should occur at floor changes or at the cornice line of the roof. Transitions should be created by material or color changes or the use of ornamental features. The architectural style and materials should be consistent on all sides of a building.

(5) *Building Height* – Building heights should not differ by more than 15% on a single block, except that taller buildings that anchor a corner may not be considered in calculating the block average. *See Figure 6-26.*

(6) *Entrances* – All primary entrances should be articulated by any of the following design elements:
   (a) a canopy or arcade; *See Figure 6-27a*.
   (b) an entrance projecting from the façade no more than 3 feet; *See Figure 6-27b*.
   (c) an entrance recessed from the front façade between 3 and 5 feet; *See Figure 6-27c.*
   (d) a combination of ornamental architectural molding and windows such as transom windows. *See Figure 6-27da.*

(7) *Openings* – Window and door openings should be vertically oriented, however windows and doors should be grouped to have a similar orientation as the structure. Building entrances should occur a minimum of every 75 feet along street frontages.

(8) *Diversity* - Buildings should present diverse but consistent appearances. Changes in material, color or relief areas are acceptable when used as accents to the primary materials, color, and wall. Use of visual features such as awnings, ornamental doors and windows, and architectural details are encouraged to create diversity.

Figure 6-25. *Long building facades should use variations in building mass while still presenting a consistent streetscape.*

Figure 6-26. *Height deviations in buildings along a single block should be small except that taller buildings may anchor corners of blocks.*

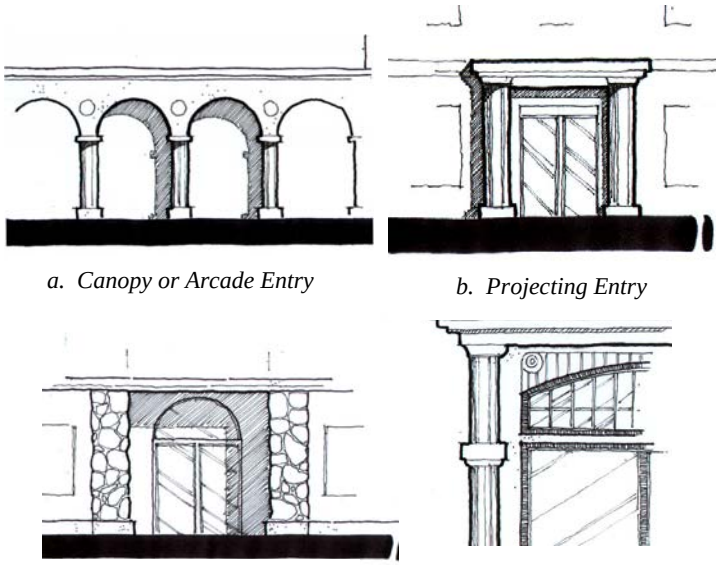


Figure 6-27 a-d. *Demonstrates the different types of entry treatments that help add variety and animation to buildings along the streetscape.*

D. Village Zoning Special Review Procedures

1. Intent

The Village Zoning Special Review Procedures offer an incentive of expedited and consolidated review. These special review procedures are intended to provide some offset for any added time and expense for project development under the standards of the Village Zoning Districts. This special procedure will reward developments that more directly implement the goals of the Comprehensive Plan and comply with the standards and guidelines in this Article of the Zoning Ordinance with expedited review of development applications.

2. Applicability

Any rezoning application to the VRM, NVC, or CVC may apply under the expedited review procedure contained in this subsection D., provided:

a. The application satisfies the goal of the Comprehensive Plan, the intent of the village zoning districts, and meets or exceeds all applicable standards in this Article VI and the Fairhope Subdivision Regulations; and
b. The applicant has demonstrated and signed an affidavit with the application for expedited review stating that public outreach pertaining to all elements of the development application through any one of the following techniques has occurred:
   (1) Open meetings with nearby property owners and any other interested parties to discuss the design and development of the project; or
   (2) A public design charter whereby the public is invited to a series of meetings where design and development issues and goals are formulated leading to the creation of design alternatives, and the selection of preferred design concepts; or
   (3) Any other method of open meetings or workshops whereby stakeholders in the project and nearby property owners can be informed and potentially influence the direction of the proposed design and development concepts in the village;
c. All property contained within the approved village zoning districts shall be accompanied by a regulating plan, development plan or other conceptual representation of site development which considers development of the village as an integrated site and subjects all future phases of development to compliance with the regulating plan, development plan, or conceptual site plan.
d. Eligibility for the expedited review process in no way affects the review criteria that must be met prior to acceptance of a rezoning application to the VRM, NVC, or CVC zoning districts.

3. Procedures

a. *Initiation:* A zoning map amendment to rezone property to the VRM, NVC, or CVC district may be initiated by a majority of the City Council, a majority of the Planning Commission, or the property owner.

b. *Application:* An application for a zoning amendment shall be submitted on the application form provided by the Director of Planning and Building. The applicant must request in writing that the application be reviewed through the expedited review process. Applications can be submitted 20 days prior to the Planning Commission meeting, instead of according to the published Planning Commission schedule. The application shall include all information requested on the application form. The Director of Planning and Buildings shall determine if the application is complete. If the application is not complete, the Director shall notify the applicant in writing indicating necessary steps to cure the incomplete application. Upon determination of a complete application, notice of the application will be published and/or mailed. The applicant shall be responsible for all costs of notification and filing fees.

c. *Notice –*
   (1) Notice of Planning Commission Hearing
      (a) Published Notice – Notice shall be published once, at least 15 days prior to the hearing, in a newspaper of general circulation. The notice shall include the following:
         (i) A provision that the application will be considered by the Planning Commission;

(ii) A copy of the proposed amendment or application is available at City Hall;
(iii) The time and place that the application will be considered by the Planning Commission;
(iv) All persons shall have an opportunity to be heard in opposition to or in favor of the amendment;
(v) In the case of a zoning map amendment, a general description of any property, including any common name by which the property is known.

(b) Mailed Notice – The applicant shall furnish the City the names and mailing addresses of all persons owning property within 300 feet of any specific property that is the subject of the application. Names and addresses shall be from the latest records of the county revenue office and accuracy of the list shall be the applicant's responsibility. Where land within 300 feet involves leasehold property, the names and addresses of the landowner and the leasehold improvements shall be provided to the City.

(c) Posted Notice – The applicant shall post on any specific property, which is the subject of the application, a sign facing each adjacent public street. The sign shall be furnished by the City at the time of application giving notice of the hearing. The sign shall be posted no later than 15 days prior to the hearing before the Planning Commission, and shall remain posted until final action of the City Council. It is the sole responsibility of the applicant to post the sign in accordance with these regulations. Failure to post this sign may result in nullification of the zoning change decision and application.

(d) Upon determination of a complete application, notice of the application will be published and/or mailed. The applicant shall be responsible for all costs of notification and filing fees.

(2) Notice of City Council Hearing – Prior to the City Council hearing, two notices shall occur in a newspaper of general circulation in the City, or where no such paper exists, in four conspicuous places in the City. Each notice shall be at least 15 days prior to the date when the City Council will consider the application.

(a) Initial Publication – The initial publication shall be according to the following:
(i) The text of the proposed amendment in full or the application;
(ii) The time and place that the application will be considered by the City Council;
(iii) Notice that all persons shall have an opportunity to be heard in opposition to or in favor of the application.

(b) Second Publication – The second publication shall be according to the following:
(i) A synopsis of the proposed application;
(ii) The date and name of the newspaper or locations of the first publication;
(iii) The time and place that the application will be considered by the review body;
(iv) Notice that all persons shall have an opportunity to be heard in opposition to or in favor of the application.

(3) Compliance with Law - The foregoing requirements are intended with applicable law relating to notice. To the existent that such requirements do not so comply with applicable law or in the event any applicable law is hereafter altered, amended or otherwise modified, this section C.1.c. shall be construed so as to comply with such altered, amended or modified law.

d. *Review* – The proposed amendment shall be reviewed according to the following:

(1) A complete application shall be reviewed by the Director of Planning and Building.

(2) The application shall be submitted to the Planning Commission at the next available meeting. The Planning Commission shall consider the application and take one of the following actions:
(a) Recommend approval of the application to the City Council;
(b) Recommend approval of the application to the City Council, conditioned on specific revisions;
(c) Recommend denial of the application to the City Council; or
(d) Continue discussion of the application for further study. An application shall only be continued one time without the applicant's consent before the Planning Commission shall pass it along to the City Council for action. Any continuance shall be for a time reasonably necessary to completely and adequately address the issue of further study. An applicant may agree to more continuances.

(3) The application shall be submitted to the City Council, with the recommendation of the Planning Commission. The City Council shall consider the application at a public hearing and take one of the following actions:
(a) Approve the application;

(b) Approve the application, conditioned on specific revisions;
(c) Deny the application;
(d) Continue discussion of the application for further study. An application shall only be continued one time without the applicant's consent before the City Council shall take one of the above actions. Any continuance shall be for a time reasonably necessary to completely and adequately address the issue of further study. An applicant may agree to more continuances; or
(e) Remand the proposed amendment to the Director of Planning and Building or to the Planning Commission for further study and discussion. An application may be remanded only once without the applicant's consent before the City Council shall take one of the above actions. An applicant may agree to more remands.

e. *Criteria:* The application shall be reviewed based on the following criteria:
(1) Compliance with the Comprehensive Plan;
(2) Compliance with the standards, goals, and intent of this ordinance;
(3) The character of the surrounding property, including any pending development activity;
(4) Adequacy of public infrastructure to support the proposed development;
(5) Impacts on natural resources, including existing conditions and ongoing post-development conditions;
(6) Compliance with other laws and regulations of the City;
(7) Compliance with other applicable laws and regulations of other jurisdictions;
(8) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values;
(9) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.

f. *Limitation on Re-submittal:* No application for a zoning map amendment shall be considered within 365 days from a final decision on a previous application for the same or similar parcel of land. An application may be withdrawn without prejudice prior to consideration by the Planning Commission and City Council. A request to withdraw an application shall be made in writing.

g. *Modifications:* Modifications in substantial conformance with an approved regulating plan or development plan may be approved by the Director of Planning and Building if they meet the following conditions:
(1) The modification addresses actual site conditions that were not anticipated in the reviewed rezoning and regulating or development plan;
(2) The modification meets the intent of the village zoning district standards or any conditions on rezoning in an equivalent or improved manner than the original regulating or development plan; and
(3) The modification results in no greater impact on adjacent property than the approved regulating or development plan.

Article VII
Non-conformities

A. Purpose and Intent
B. Non-conforming Structures
C. Non-conforming Uses
D. Non-conforming Lots
E. Non-conforming Signs
F. Maintenance of Non-conformities
G. Adjacent Land

A. Purpose and Intent

This ordinance seeks to protect the public health, safety, and general welfare, and avoid any unreasonable invasion of established private property rights. The elimination of existing buildings and structures or uses that are not in conformance with the provisions of this ordinance is as much a subject of health, safety and general welfare as is the prevention of the establishment of new uses that would violate the provisions of this ordinance. Lawful non-conformities can adversely affect orderly development, maintenance, and use and taxable values throughout the City. To avoid undue hardship, non-conformities that came into existence lawfully should be allowed to exist subject to conditions in this Article; however, the conditions should seek to ultimately secure compliance with the comprehensive plan.

B. Non-conforming Structures

Structures that were legally constructed prior to the adoption of this ordinance, but which could not be constructed under the terms of this ordinance are considered legal non-conforming structures. A legal non-conforming structure may continue to exist subject to the following:

1. Alteration and expansions may follow the non-conforming setback only on the non-conforming side.
2. The structure shall remain legal in all other regards except for the non-conformance that existed upon adoption of the ordinance that made the structure non-conforming.
3. A non-conforming structure, which is not intentionally damaged, destroyed, or removed, may be restored within one year from the date of the event. If the structure is not re-constructed in one year all restorations and improvements shall be in compliance with applicable ordinances. The burden of proof of date of damage or destruction shall be on the person proposing the restoration.

C. Non-conforming Uses

Use of land or structure that legally existed prior to the adoption of this ordinance, but which could not be initiated under the terms of this ordinance is considered a legal non-conforming use. A legal non-conforming use of land or structures may continue to exist subject to the following:

1. The use shall be restricted to the lot and building occupied by the use as of the effective date of the ordinance creating the non-conformance. A legal non-conforming use shall not be extended to any other building or lot or part of a lot.
2. A lawful non-conforming use that ceases for any reason for a period of more than 180 consecutive days shall not be reinitiated unless it is in compliance with all ordinances. If a legal non-conforming use is replaced by a conforming use, the legal non-conforming use shall not be reinitiated.
3. Any site characteristic of a use, whether conforming to this ordinance or a legal non-conforming use, in existence prior to adoption of this ordinance (such as parking, landscaping, or driveways) shall be considered legal. However, any change in use, expansion of the use, or expansion of the structure associated with the use shall require all non-conforming site characteristics to be brought in conformance with this ordinance.
4. A change of a legal non-conforming use shall only be allowed if the change is to a conforming use or to a use that is considered less non-conforming, as determined by the Director of Planning and Building, either in extent of non-conformance or in intensity.

D. Non-conforming Lots

Where a lot, tract or parcel of land has an area or width that does not conform to the requirements of the district in which it is located, the lot may be used for a detached single-family dwelling except in the M-1 and M-2 Industrial Districts. A single detached family dwelling may be constructed in an R-1, R-2, R-3, R-4, or R-5 Residential District provided the lot to be so used has a minimum area of four thousand (4,000) square feet and a minimum lot width at the building line of forty (40) feet, provided it is located on a public sewer.

Yard requirements shall be modified subject to the following conditions:

1. On double frontage lots (interior lots abutting two (2) streets) the required front yard shall be provided on each street.
2. The side yard requirements for substandard lots of record may be reduced for each side yard at the rate of one (1) foot for each four (4) feet by which the lot width lacks fifty (50) feet, provided in no event shall such side yard be reduced to less than five (5) feet on each side.
3. The front setback (and, on corner lots, the street side setback) shall not apply to any lot where the average setbacks in the same block and within 200 feet of the subject lot is less than the minimum setback required for the district. In such cases, the proposed building may be aligned with the building's existing on either side thereof.
4. On corner lots, the street side yard shall be that part of the lot having its greatest frontage abutting that right-of-way and the required setback shall be 20 feet, unless otherwise provided herein.

E. Non-conforming Signs

A sign or sign structure that legally existed prior to the adoption of this ordinance, but which could not be initiated under the terms of this ordinance is considered a legal non-conforming sign. A legal non-conforming sign may continue to exist subject to the following:

1. Any legal non-conforming sign that is removed or is destroyed shall be replaced with a conforming sign.
2. Where a change in use, occupancy, or ownership occurs which necessitates the altering of a sign in any manner (not including copy change), the altered or changed sign shall conform to all ordinances.
3. All legal non-conforming signs, which are 15 percent or more in excess of allowed maximum dimensions, shall be either removed or replaced with a conforming sign within 5 years of the date it became a legal non-conforming sign. Upon failure to comply with the time specified, the building official may require the sign to

be removed as provided by law and any expense shall be paid by the owner, agent or lessee of the sign or property on which the sign is located.

4. All non-conforming signs shall be removed for a premise prior to issuance of any other sign permits.

F. Maintenance of Non-conformities

In the interest of public safety and health, routine maintenance of non-conforming situations shall continue as warranted by the property owner or otherwise required by law, provided that no maintenance involves continuance or expansion of the non-conformity contrary to this Article.

G. Adjacent Land

The presence of a non-conforming use in a zoning district shall not be allowable as grounds for the granting of variances for other surrounding properties by the board of adjustment.

Article VIII
Enforcement

A. Penalties
B. Remedies
C. Appeal

A. Penalties

Any person violating any provision of this ordinance shall be fined upon conviction, not less than twenty-five dollars ($25.00) nor more than two hundred fifty dollars ($250.00) and court costs for each offense. Violation of any provision of this ordinance may also be punished by issuance of municipal offense ticket as provided by Ordinance No. 862.

B. Remedies

In case any building or structure is erected, constructed, reconstructed, altered, or converted, in violation of this ordinance, the building inspector, legal officer, or other appropriate authority or any adjacent or neighboring property owner who would be specially damaged by such violation may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate such violation; or to prevent the occupancy of 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.

C. Appeal

If, after notification of a zoning violation the individual or corporation elects to apply for a zoning variance, the applicant must complete all notification requirements of the variance application process within ten (10) business days of notification of the violation. Written notification of the proposed variance shall be postmarked to the required surrounding property owners within ten (10) business days and in addition, such other public notification as required shall have been provided by the applicant. Should the applicant be unable to comply with this provision he shall provide a written explanation through the building inspector to the board of adjustment. Failure to do either shall be interpreted as a withdrawal of the appeal and shall subject the applicant to immediate compliance with this ordinance.

Article IX
Definitions and Interpretation

A. Interpretation
B. Description of Uses
C. Defined Terms

A. Interpretation

All words shall have the customary dictionary meaning, unless specifically defined or described by this Article or unless context requires a different meaning. The present tense includes the future tense and the future tense includes the present tense. The singular number includes the plural and the plural includes the singular. Graphics, tables and commentary boxes used in this ordinance are to aid interpretation of the text, unless otherwise specifically stated. In the event of a conflict or ambiguity between a graphic, table or commentary box and the text, the text shall control.

B. Description of Uses

This section contains descriptions associated with the use of land. Where a use is not specifically listed but meets all of the characteristics of the use description, or meets all of the characteristics of a use that is specifically listed, the Director of Planning and Building may interpret the ordinance as allowing the use. Where a use is similar, but does not meet all of the characteristics, is different in scope, or is different in impact from the characteristics described or a specific use listed, the Director shall find that the use is similar but not consistent with the use description and specifically described use and it shall be referred to the Board of Adjustment for an interpretation and decision consistent with the intent of this ordinance. Any other uses that are different from those described and not anticipated by this ordinance, but may be allowed by a zoning text amendment.

The following use definitions and descriptions are grouped into seven general use categories: 1) Dwellings; 2) Civic; 3) Office; 4) Retail; 5) Service; 6) Manufacturing; and 7) Rural. Each general use category is either described or defined, followed by specific uses or a more specific use classification within that category.

1. Dwelling Use Category -

The Dwelling Use category includes all types of living arrangements. A “dwelling” or “dwelling unit” is any building, portion thereof, or other enclosed space or area used as or intended for use permanently or temporarily as the home of one family, with separate cooking and housekeeping facilities.

a. *Single Family* – a detached dwelling designed for and occupied by one family.

b. *Two Family* – a detached building with only two dwelling units designed for and occupied by or for occupancy by two families.

c. *Townhouse* – a dwelling unit attached to a series of other dwelling units by not more than 2 vertical party walls, and where each unit maintains an individual entrance from the exterior of the building and is on its own lot.

d. *Townhouse Complex* – a group of attached dwelling units meeting the townhouse definition, except that they are on a single lot.

e. *Patio/Garden Home* – a detached dwelling unit located on its own lot, having only one side yard required or detached building with only two dwelling units designed for and occupied by two families, with a small courtyard, patio or side yard required for each dwelling unit.

f. *Multiple-Family*/Apartment – a building with three or more dwelling units designed for or occupied by three or more families with separate cooking and housekeeping facilities for each, where either the units share a common entrance from the exterior of the building or any single unit has a common wall or floor with more than two other units.

g. *Manufactured Home* – a structure that is governed by the federal manufactured home construction and safety standards established by the National Manufactured Homes Construction and Safety Standards Act, 42 U.S.C. Section 5403.

h. *Manufactured Home Development* – any plot of ground upon which two or more manufactured homes, occupied for dwelling purposes, are located, regardless of whether or not a charge is made for such accommodation.

i. *Manufactured Home Space* – a plot of ground within a manufactured home development designed for the accommodation of one manufactured home.

j. *Mixed Use* – a building designed for one or more other uses in addition to one or more dwelling units that are not accessory to any of the other uses.

k. *Accessory Dwelling Unit* – a dwelling unit that is associated with and incidental to a principal use, and is on the same lot as the principle use.

l. *Estate Dwelling* – a single-family dwelling unit located on a lot within a block that meets the standards of the Fairhope Subdivision regulations and the lot is at least ¼ of the area of that block or ¾ of an acre, whichever is larger.

2. Civic Use Category

The Civic Use category includes uses serving a broad and general public interest to enhance daily community life for adjacent land owners and residents, which are typically run by a government entity, not-for-profit agency or association, religious or charitable institutions, or similar philanthropic organizations.

a. *Elementary School* – an education facility for grades K through 8.

b. *Secondary School* – an education facility for grades 9 through 12.

c. *Education Facility* – a place of general education for students beyond grade 12. It may include vocational training, continuing education, or education campuses.

d. *Library* – an establishment offering educational resources and is open to the public.

e. *Place of Worship* – an establishment that conducts organized religious services and assemblies.

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

g. *Hospital* – an establishment providing health service, medical and surgical care, and room and board to persons suffering from illness, disease, or injury, including supporting facilities such as laboratories, outpatient facilities, and training facilities.

h. *Public Open Space* – any space dedicated for public use, exclusive of rights-of-way and easements, and open from the ground to the sky. Public open space does not include any impervious surfaces designated for automobile use.

i. *Common Open Space* – any space dedicated for common use by a group of citizens due to property ownership, residency, or patronage of facilities associated with the open space, exclusive of rights-of-way and easements, and open from the ground to the sky. Common open space does not include any impervious surfaces designated for automobile use or any required yard or setback.

j. *Community Center or 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.

k. *Public Utility* – a use of any structure, land, or infrastructure by a regulated enterprise or franchise to provide a service to all members of the general public that is deemed essential for the public health, safety, and welfare. Review by the Planning Commission, in accordance with Section 11-52-11 of the Code of Alabama, for review of compliance with the Fairhope Subdivision Regulations and Comprehensive Plan, may be required for all public utility facilities.

3. Office Use Category

The Office Use Category consists of the use of buildings for administrating the business of professional firms, organizations, or government, whose products or services are of the nature that generally do not involve the frequent and intensive interactions with clients, customers, or patrons on the premises, and where delivery of the product does not necessarily need to occur on the premises.

a. *General* – any building used for the administrative affairs of a firm, organization or government.

b. *Professional* – a building occupied by a profession and offering professional services to clients, customers, or patrons which may involve occasional on-site contact with clients, customers or patrons. Examples include architect, accountant, real estate, engineer, lawyer, or other similar professions.

c. *Home Occupation* – an operation for gain or support conducted only by members of a family residing on the premises limited in its use and not in a manner detrimental to the character of the surrounding neighborhood.

4. Retail Use Category

The Retail Use Category consists of businesses that sell merchandise to consumers for use off premises.

a. *Grocery* – a business engaged primarily in the retail sale of food for home consumption, but may also include accessory sales of household products.

b. *Convenience Store* – a business engaged in the retail sale of food and household products for consumption off premises and characterized by the rapid turnover of customers.

c. *General Merchandise* – a business primarily engaged in the sale of merchandise for consumer use off of the premises. This use excludes any more specifically described use.

d. *Shopping Center* – a group of two or more retail and service establishments consisting of over 18,000 square feet on the ground floor and located on commonly owned property or sharing the same parking facilities.

e. *Automobile Service Station* – any building or land used for retail sale and dispensing of automobile fuel. Vehicle lubricants, supplies, accessories, and minor services may be offered if incidental to the sale of fuel and no more than three (3) interior vehicle storage and service bays are provided.

f. *Garden Center* – any retail sales of plants that require outdoor storage of merchandise at any time of the year.

g. *Outdoor Sales Limited* – a retail use where a minor portion of the merchandise, both in area and in business value, is typically stored outside during business hours.

h. *Outdoor Sales Lot* – a retail use where a significant portion of the merchandise, either in area or in business value, is typically stored outside during business hours.

5. Service Use Category

The Service Use category is for businesses that offer clients, customers, or patrons goods for consumption on the premises, or offer services for performance and delivery on the premises.

a. *Convalescent or Nursing Home* – a business providing living accommodations and care 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, and where non-resident staff is present for more than 8 hours per day.

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

c. *Outdoor Recreation Facility* – a business primarily engaged in the provision of outdoor sports, entertainment, or similar recreation opportunities for participants or spectators.

d. *Mortuary or Funeral Home* – an establishment used for the preparation of deceased humans and ceremonies prior to burial or cremation.

e. *Day Care* – a business providing for the day care and/or instruction of non-resident children.

f. *General Personal Services* – a business that provides including uses such as post office, bank, barber shop or beauty saloon, film processing, small appliance repair, tailor, office support, or other similar service. Any personal service that is more specifically described is excluded from this use.

g. *Automobile Repair* – the repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles. Vehicle lubricants, supplies, and accessories may be supplied and sold at retail.

h. *Indoor Recreation Facility* – a business engaged in the provision of indoors sports, entertainment, or similar recreation opportunities for participants or spectators. Examples of uses include roller skating rinks, movie theaters, or fitness clubs.

i. *Dry Cleaner/Laundry* – a business engaged in cleaning clothes, fabrics, or upholstery on-site either by drop-off and pick-up by customers or through delivery services.

j. *Personal Storage* – a business offering separate storage areas leased or rented on an individual basis.

k. *Bed and Breakfast or Tourist Home* – a business where lodging and/or meals are provided incidental to a principle single-family dwelling, where no cooking or dining facilities are provided in individual rooms, and where the owner resides on the premises.

l. *Hotel or Motel* – a business where lodging services, including accessory uses such as eating and drinking facilities, recreation facilities and parking, are provided. Lodgings may consist of sleeping rooms only or may include cooking facilities also, but are not intended for long-term occupancy.

m. *Boarding House or Dormitory* – a business where lodging and/or meals are provided, where no cooking or dining facilities are provided in individual rooms, and where an owner or manager resides on the premises.

n. *Recreational Vehicle Park* – a development providing rental spaces for recreational vehicles such as a trailer, camper, or motor home on a short-term basis, including accessory recreation and service facilities for the use of the tenants.

o. *Restaurant* – a business serving prepared meals for consumption on the premises, which may include an accessory bar, carry out, drive-through, or catering services.

p. *Bar* – a business serving alcoholic beverages, which may include accessory food and entertainment services.

q. *Entertainment Venue* – a business where floorshows or other forms of entertainment by persons are provided for guests, which may include accessory dining, bar, and similar refreshment services. Examples include concert halls, dinner theaters, or banquet halls.

r. *Marina* – a business providing boat storage and services on the water.

s. *Kennel or Animal Hospital* – any business where four (4) or more dogs over four (4) months of age are kept for general boarding or medical care.

t. *Warehouse* – a business where a major portion of the floor area is used for storage of goods, products, or parts for distribution at bulk retail or wholesale, or where the storage is a service provided for a fee.

u. *Junk Yard or Salvage Yard* – a structure or lot where discarded or salvaged materials are bought, sold, exchanged, baled, packed, stored, accumulated, disassembled, or handled. This definition shall not include properly licensed establishments for the sale, purchase, or storage, of usable second-hand goods. Nor shall it apply to the processing of used, discarded, or salvaged materials as part of properly licensed manufacturing operations.

v. *Wholesale Establishment* – business establishments that generally sell commodities in large quantities or by the place to retailers, jobbers, other wholesale establishments, or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product, or for use by a business service.

6. Manufacturing Use Category

The Manufacturing Use Category is for businesses engaged in economic activity involving construction, production, processing, transformation, warehousing, wholesale, and disposal of goods, products, and component parts of goods and products, including related services. These uses typically belong in a special district do to their inability to blend with the uses from other use categories.

a. *Limited* – any small scale manufacturing use that has a retail or service component and which presents no outward, visible, or perceptible presence on manufacturing activity.

b. *Light* – a business engaged in fabrication, processing, or assembly of finished products or parts, predominantly from previously prepared materials, including accessory packaging, incidental storage, sales, and distribution of products.

c. *General* – a business that transforms raw materials through mechanical, chemical or physical processes, into component parts or ingredients for subsequent use in light manufacturing or wholesale.

d. *Heavy* – mass production or extraction of raw materials for subsequent use in general or light manufacturing, including uses such as mining, quarrying, agricultural feed lots, and other potentially noxious uses.

e. *Food Processing* – the preparation, storage or processing of food products on a large scale for wholesale. Examples of these activities include bakeries, dairies, canneries, and other similar activities or businesses.

7. Rural Use Category

The rural use category is for uses that are commonly associated with an agrarian or rustic lifestyle, and which demand little or no public infrastructure or services.

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

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

c. *Rural Market* – a business for the retail sale of agricultural products produced on site and operated without any additional site facilities than are otherwise associated with agriculture use. Roadside stands, truck sales or barn sales are examples of such uses; however, the intensity and frequency of such sales shall be so that no additional parking, roads, structures, warehouses or other storage facilities are necessary on the site.

8. General Use Definitions and Descriptions

The following use definitions or descriptions do not fit into any single use category, but apply generally throughout this ordinance.

a. *Accessory Use* – a use that is customarily incidental to the principal use, is typically maintained and operated as part of the principle use, is subordinate to the principle use, and is located on the same lot as the principle use.

b. *Airport* – any runway, land area or other facility designed and used either publicly or privately by any person for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie down area, hangars and other necessary buildings, and open spaces.

c. *Fixed Dwelling* – a dwelling unit (or structure containing several units) attached to a permanent foundation.

d. *Garage, Private* – a building or part thereof designed and/or used for inside parking of motor vehicles by the occupants, patrons or other users of the principal structures on the premises.

e. *Garage, Public* – a building or part thereof designed or used for indoor or partially indoor (covered) parking of motor vehicles, operated as a commercial enterprise, accessory to a commercial enterprise, or as a governmental service and providing only incidental services for such vehicles.

f. *Lodging* – a business where overnight accommodations are provided for transient guests where compensation is provided on a daily or weekly basis.

C. Defined Terms

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

Alteration, Building: Any change in the supporting members of a building (such as bearing walls, beams, columns, and girders), except such change as may be required for its safety; any addition to a building; or any changes in use resulting in moving a building from one lot to another or to a different zoning district.

Arterial Street: A highway or street of considerable continuity, providing direct and continuous connections to points along its route through various modes of transportation, interrupted only by major community destinations or topographical obstacles.

Artificial Wetland: A constructed shallow area designed to emulate the natural functions of a wetland including evaporation, infiltration, and storage of runoff, sedimentation, and other aquatic functions, which has been recognized and approved as a "Best Management Practice."

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

Bio-filter: A stormwater management facility that treats stormwater by filtration through vegetation, which as been recognized and approved as a "Best Management Practice."

Block: A division or parcel of land entirely surrounded by public highways or streets, other rights-of-way, or other boundaries as specified in the Fairhope Subdivision Regulations.

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

Build-to line: The line specified as a distance from the right-of-way or other public easement at which structures are required to be constructed for some portion of the lot.

Building line: The actual line at which a building on a lot is constructed.

Building, Height: The vertical distance measured from the average natural elevation of the lot at the front of the building to the highest point of the roof.

Building Official: The building official of the City of Fairhope who is appointed by the City and is charged with enforcement of this ordinance with the Director of Planning and Building.

Building, Principal: A structure for occupancy in which is conducted the main or principal use of the lot.

Central Business District: That area of the City designated as the business center of the area and within the following boundaries: From one lot back (refers to typical lot depth, see map) from the South side of Morphy Avenue to one lot back from the North side of Oak Street and from one lot back from the East side of Bancroft Street to one lot back from the West side of Church Street (Reference Map).

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

Clear Sight Distance: The area near intersections regulated by the Fairhope Subdivision Regulations for proper lines of sight within which no visual obstructions may be placed, or when applied by this ordinance to private property, the area near driveway access lanes or driveway aisles where the proper lines of sight are regulated in the same manner as the Fairhope Subdivision Regulations.

Collector Street: A street of moderate continuity, providing direct and continuous access to points along its route through various modes of transportation, interrupted occasionally by neighborhood destinations or topographic obstacles, and used primarily for access between local streets and arterial streets.

Commercial Vehicle: Any vehicle designed and used for transportation of people, goods, or things, other than private passenger vehicles.

Commission: The Fairhope Planning Commission.

Comprehensive Plan: Any plan or program adopted by the city for the physical, systematic, and orderly development of the city and its planning jurisdiction with particular regard to streets, parks, industrial and commercial undertakings, civic beauty and other matters properly within the police power. This also includes that Fairhope Comprehensive Plan adopted by the City Council of the City of Fairhope, Alabama on January 29, 2001 as amended and as the same shall hereafter be altered, amended, modified and/ or replaced from time to time.

Condominium: A form of property ownership where the land under buildings and the open spaces around buildings is in single ownership for the common use of building owners or tenants.

Deck: An extension of a building or dwelling unit attached at or below floor level and having no walls or roof; railings may be provided; includes the term balcony.

Density: A measurement of the number of dwelling units per acre of land.

a. Gross Density – the number of dwelling units per acre of the total land to be developed.
b. Net Density – the number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

Director of Planning and Building: The official of the City who is charged with enforcement of the provisions of this ordinance.

District: A section of the area zoned, within which the zoning regulations are uniform.

Driveway Access Lane: The principal means of vehicular ingress and egress from the right-of-way to a lot.

Driveway Aisle: A vehicular circulation lane internal to a site exclusive of the ingress and egress from the right-of-way.

Dry Well: A cavity of sufficient size, filled to the surface with compacted rocks to allow water storage capacity.

Dry Swale: A shallow stormwater management facility designed to store or convey excess runoff in a large storm event for gradual evaporation and infiltration, but does not retain water in normal storm events or dry periods.

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

Erected: To cause to be built, constructed, reconstructed, moved upon or any other physical operations such as excavations, fill, or drainage on the premises required for building.

Expansion, Building: The addition of enclosed or unenclosed rooms or storage spaces, porches, structures or parking area to an existing building.

Expansion, Use: The increase in area of land or structure that serves a particular use.

Family: One (1) or more persons occupying a single dwelling unit and using common cooking facilities, provided that, unless all members are related by blood, adoption or marriage, no such family shall contain over five (5) persons.

Family (Home Occupation): For purposes of home occupations, family is defined as only those persons related by blood, marriage or adoption and using common cooking facilities within a single dwelling unit.

Flood: A temporary rise in stream or surface water level that results in inundation of areas not ordinarily covered by water.

Flood Frequency: The average frequency statistically determined, for which it is expected that a specific flood level may by equaled or exceeded.

Floodway: That portion of the flood plain, including the channel, which is reasonably required to discharge the bulk of the regional floodwaters. Floods of less frequent recurrence and non-inundating are usually contained completely within the floodway.

Flood Plain: Those areas defined by the U.S. Geological Survey of the U.S. Army Corps of Engineers as subject to flooding once in one hundred (100) years, based on topography and FEMA; and further including any areas as may be designated at a future date by regulatory authority of such times.

Frontage, Building: The outside wall surface of a building, excluding porch or deck, nearest to the front lot line.

Frontage: The area of a lot made up of the front building facade and any area between the front building facade and the right-of-way or other public easement.

Ground Cover: Natural (mulch) or low growing plants other than deciduous varieties installed to form a continuous cover over the ground.

Heritage Tree: Any live tree greater than or equal to twenty inches (20”) in diameter at breast height (DBH). Breast height is established as the height of the trunk of a tree fifty-four inches (54”) above grade.

Homeowners Association or Association: An incorporated, non-profit organization operating under recorded land agreements through which, (a) each lot and/or home owner in a planned or other described land area is automatically a member, and, (b) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization’s activities, such as maintaining a common property, and (c) the charge if unpaid becomes a lien against the property.

Lot, Corner: A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of a street which form an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the right-of-way lines is the corner.

Lot, Double Frontage or Through: A lot or plot, but not corner lot that abut upon two streets, the two frontages being noncontiguous.

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 front right-of-way lines.

Lot Width: The mean, (average) horizontal distance between the side lot lines, measured at the right angles to the lot depth. A minimum lot width shall be applied at the front setback line.

Lot Line, Front: The lot line contiguous to the right-of-way line of the street on which the lot has least dimension.

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

Lot Line, Side: Any lot line other than a front or rear lot line. A side lot line of a corner lot separating a lot from a right-of-way is called a side street lot line. A side lot line separating a lot from another lot is called and interior lot line.

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

Master Plan: Any portion of the Comprehensive Plan adopted by the Planning Commission for the physical development of the City and areas outside the boundaries, which bear relation to the planning of the municipality.

Parking Space or Parking Lot: An area reserved for temporary storage of motor vehicles.

Plat: A map, plan or layout of a county, city, town, section or subdivision indicating the location and boundaries of properties.

Planned Unit Development: A planned unit development (1) is land under unified control, planned and developed as a whole in a single development operation or approved programmed series of development operations for dwelling units and related uses and facilities; (2) includes principal and accessory uses and structures substantially related to the character of the development itself and the surrounding area of which it is a part; (3) is developed according to comprehensive and detailed plans which include not only streets, utilities, lots, or building sites and the like, but also site plans, floor plans, and elevations for all building as intended to be located, constructed, used, and related to each other, and detailed plans for other uses and improvements, facilities, and services as will be for common use by some or all of the occupants of the planned unit development but will not be provided, operated or maintained at public expense.

Porch: A roofed-over or open 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.

Recreational Vehicle: A self-propelled vehicle used for temporary housing of individuals and families during travel. This includes campers, camping trailers, motor homes and smaller mobile manufactured homes (up to a length of twenty-eight (28) feet exclusive of hitch) capable of being towed by a passenger motorcar.

Regulatory Flood: The flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur. The regulatory flood generally has a flood frequency of approximately one hundred (100) years as determined from an analysis of floods at a particular site and other sites in the same general regions (See Ordinance No. 668).

Regulatory Flood Protection, Elevation: The elevation of the regulatory flood plus one (1) foot of freeboard to provide a safety factor.

Right-of-Way: A strip of land taken or dedicated for use as a public way. In addition to the roadway it normally incorporates the curb, 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.

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) lineal inches of benches, pews or space for loose chairs.

Setback Line: A line established by the subdivision regulations and/or this ordinance, generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building, or structure, may be located above ground.

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

Sewers, On-Site: A septic tank or similar installations 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.

Short-Term Rental: Includes any person, firm, entity, partnership, trust, corporation, association or organization that is renting a dwelling for less than 30 days are not allowed in R-1, R-2 and R-3. Short-term Rentals shall only be allowed in the R-4, R-5, B-1, B-2, B-3a and B-3b zoning districts. Short-term rentals shall be subject to the Business License Code of the City of Fairhope.

Sign: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks or combination 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/or used as an outdoor display.

Sign, A-Frame: A-Frame Signs are allowed only within the City of Fairhope Central Business District. A-Frame Signs are designed to stand on their own, either on public or private property. A-Frame Signs are hinged at the apex to be folded into a sandwich position. A permit is required from the City of Fairhope.

Sign, Building: A sign attached in any manner against or to a building or appurtenance of a building.

Sign, Construction: Any sign listing principal contractors, architects and any establishments for the construction site where the sign is placed.

Sign, Copy: The wording on a sign surface in either permanent or removable letterform.

Sign, Directional: A sign permanently or temporarily erected by or with approval of any authorized government agency to denote the route to any city, town or village, historic or religious place, shrine, public building, or hospital and signs directing and regulating traffic; public safety signs; sign or notices of public places of public and civic meetings and signs giving the name of the owner, lessee, or occupant of the premises or the street number.

Sign, Double-faced: A sign having two (2) display surfaces, displaying the same copy, which are attached parallel and back to back, not more than twelve (12) inches apart.

Sign Face: The area of a sign including the entire surface on which the copy is placed.

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

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

Sign, Incidental: A sign providing no advertising other than a logo or name and necessary only for assuring safe ingress, egress, circulation, or other safety-related communications.

Sign, Indirectly Illuminated: A sign designed or arranged to reflect light from an artificial source external to the sign face.

Sign, Internally Illuminated: A light source, which is enclosed within the sign and viewed through a translucent panel. This type of illumination is often referred to as direct.

Sign, Non-Conforming: Any sign, which does not meet the requirements of this ordinance.

Sign, Off Site: A sign relating its subject matter or any portion thereof to the premises other than the premises on which it is located.

Sign, On Site: A sign relating its subject matter to the premises on which it is located.

Sign, Permanent: A sign affixed to a building or the ground.

Sign, Real Estate: A sign which advertises the sale, rental or development of the premise upon which it is located.

Sign, Roof: Any sign erected, constructed, and maintained with the principal support on the roof structure.

Sign, Sandwich: Any double-faced sign, which may readily be moved from place to place.

Sign, Shopping Center: A ground sign identifying a shopping center by name only.

Sign, Snipe: Any sign of any material whatsoever that is attached in any way to a utility pole, tree, fence post or any similar object located or situated on public or private property, not otherwise exempt.

Sign, Structure: Any construction used or designed to support a sign.

Sign, Subdivision: Any sign designed to identify a subdivision or neighborhood.

Sign, Surface Area: The surface area of a sign shall be computed for the entire area within the periphery of a regular geometric form, or combination of regular geometric forms, comprising all of the display area of the sign, and including all of the elements of the matter displayed. The surface area of a sign shall be measured from the outside edges of the sign or the sign frame or sign structure whichever is greater.

Sign, Temporary: A sign or advertising display intended to be displayed for a limited period of time, generally no longer than a month.

Sign, Window: Any sign place inside or upon a window and which is intended to be seen from the exterior.

Special Exception: Permission granted by the Board of Adjustment for a use indicated in this ordinance as a use limited to a special exception procedure, subject to conditions specified in this ordinance and any conditions the Board deems necessary to ensure that community interests are furthered by permission of the use.

Structure: Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground.

Street: That portion of the right-of-way paved for vehicular traffic, parking, or the shared use of bicycles.

Shrub: A woody perennial plant differing from a perennial herb by its persistent and woody stems and from a tree by its low stature and habit of branching from the base.

Story: That part of a building lying between floor and ceiling. For purposes herein, a story does not include attic space entirely under a hip, gable or gambrel roof, whether or not such space is occupied.

Use or Principal Use: The specific purposes for which land or a building is designated, arranged, intended or for which it is occupied.

Variances: A modification of the strict terms of the relevant regulations in a district with regard to placement of structures, developmental criteria or provision facilities. Examples would be: allowing smaller yard dimensions because an existing lot of record is of substandard size; waiving a portion of required parking and/or loading space due to some unusual circumstances; allowing fencing and/or plant material buffering different from that required due to some unusual circumstances. Variances are available only on appeal to the Board of Adjustment and subject to satisfaction of the standards specified in this ordinance.

Vehicular Use Area: Any ground surface area, excepting public right-of-ways, used by any type of vehicle whether moving or at rest for the purpose of, driving, parking, loading, unloading, storage, or display, and other vehicular uses under, on, or within buildings.

Visual Screen: A barrier of living or non-living landscape material, put in place for the purpose of separating and obscuring from view those areas so screened.

Yard: A space on the same lot with a main building, open, unoccupied and unobstructed by buildings or structures and open to the sky except where encroachments and accessory buildings are expressly permitted.

a. *Yard, Front:* A yard extending the full width of the lot and situated between the right-of-way line and the front building line projected to the sidelines of the lot. For the purpose of this ordinance, the front yard of waterfront lots is the yard that abuts the public right-of-way regardless of the orientation of the design of the structure.

b. *Yard, Rear:* A yard extending the full width of the lot and the rear building line of the main building projected to the sidelines of the lot. On all corner lots the rear shall be at the opposite end of the lot from the front yard.

c. *Yard, Interior Side:* A yard which is parallel to the side lot line and which extends from the front building line to the rear building line.

d. *Yard, Street Side:* A yard which is parallel to the right-of-way abutting the lot line of greatest dimension and which extends from front building line to the rear building line.

e. *Yard, Minimum Exterior or Required:* That space remaining between the minimum required setback line and the property line for a particular front, rear, interior side or street side yard.

Appendix A

Applications and Submittal Requirements

[Insert copies of all application forms and submittal requirements]

Appendix B

Map Amendment Ordinances

Ordinance No.	Ordinance Date	Ordinance Description or Title

Appendix C

Text Amendment Ordinances

Ordinance No.	Ordinance Date	Ordinance Description or Title
1054	5/10/99	Require Public Notice signs be posted on property being considered for a zoning change
1058	7/26/99	Regulations for communication towers and antennas – See Attached
1066	10/11/99	Regulations for metal buildings along certain corridors in the City
1067	10/11/99	Regulations for the construction of fences
1068	10/11/99	Regulations for building heights in the Central Business District
1073	11/8/99	Regulations for lighting for gas stations canopies
1087	7/10/00	Amend and simplify the Planned Unit Development (PUD) District
1102	1/22/01	Amend definition of building height
1127	6/11/01	Amend Single Family Residential Zoning District
1127	6/11/01	Amend procedure for zoning newly annexed land
1131	7/9/01	Amend Business District Requirements – Free-standing commercial structures
1138	12/10/01	Establish height restrictions for the Airport Overlay District – See Attached
1140	12/20/01	Establish noise attenuation requirements for the Airport Overlay District – See Attached
1140	12/20/01	Regulations for the Use of property in the Airport Overlay District – See Attached
1271	10/24/05	Amend Table 3-2: Dimension Table – Lots and Principle Structure
1271	10/24/05	Amend Site Plan Review procedures
1285	1/9/06	Amend Non-conforming structures
1332	6/25/07	Amend Table 3-2: Dimension Table – Lots and Principle Structure
1332	6/25/07	Amend Screening, Lighting & Landscape material
1332	6/25/07	Amend Central Business District – Sidewalks
1332	6/25/07	Amend definition of family
1334	7/9/07	Amend Storage & Parking of Trailers & Commercial Vehicles
1336	7/23/07	Establish definition of Short-Term Rental
1360	5/12/08	Establish definition of A-Frame Signs
1428	8/9/10	Amend Signs
1433	8/27/10	Establish Tourism Resort District
1451	7/25/11	Regulations for Pervious Parking
1452	8/8/11	Regulations for Tree Preservation
1454	8/8/11	Amend B-1 Zoning District to allow Restaurants
1461	11/28/11	Amend Table 2-1 Procedures – Site Plan
1464	12/12/11	Establish Medical Overlay District
1509	4/14/14	Amend B-3a and B-3b to allow Multiple Family/Apartments
1511	4/28/14	Amend B-2 to allow Hotel/Motels
1548	9/28/15	Amend Building Materials on Commercially Zoned Property
1550	10/12/15	Establish Low Impact Development Requirements – See Attached

ORDINANCE NO. 1058

AN ORDINANCE AMENDING ORDINANCE NO. 557 KNOWN AS THE ZONING ORDINANCE TO ESTABLISH REGULATIONS FOR COMMUNICATION TOWERS AND ANTENNAS PURSUANT TO THE FEDERAL TELECOMMUNICATIONS ACT OF 1996

WHEREAS, The City of Fairhope, Alabama has recognized the need to establish regulations governing communication towers and antennas in order to protect the health, safety, and welfare of the public, and

WHEREAS, The City of Fairhope, Alabama wishes to protect residential neighborhoods and land uses from the potential negative impacts of communication towers and antennas, and

WHEREAS, The City of Fairhope, Alabama desires to minimize adverse visual impacts of communication towers and antennas through careful siting, design, and camouflaging techniques, co-location when possible, and

WHEREAS, The City of Fairhope, Alabama desires to protect property by ensuring that construction of communications towers and antennas are sound, safe, and professionally designed and constructed.

WHEREAS, The City of Fairhope, Alabama desires to have unsafe and no longer used communication towers removed and dismantled.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE ALABAMA, THAT:

1. The ordinance known as the Zoning Ordinance (No. 557), adopted 11 August 1975, is hereby amended to read as follows:

   That, Article 7, Special Provisions be amended to insert as Section 70.7 Regulations for Communication Towers and Antennas.

70.71 Definitions:

Antenna Support Structure - Means any building or other structure that exceeds the height regulations for the zoning district in which it is located.

Camouflage - Means any communications tower or antennae which is designed to minimize a visual impact and to blend into the surrounding environment.

Telecommunication facilities - Means any cables, wires, lines, wave guides, antennas, or any other equipment of facilities associated with the transmission or reception of communication which a person seeks to locate or has installed upon or near a telecommunication facility.

FAA - Means Federal Aviation Agency.

Tower - Means a self supporting lattice, guyed, or monopole structure from grade which supports telecommunications facilities.

70.72 Exemptions

1) Any satellite earth station antenna that is 2 meters or less in diameter in any area zoned industrial

2) Any satellite earth station one (1) meter or less in diameter regardless of zoning district category.

3) Any communication tower or antennae that is owned and operated by an amateur or any other entity that is non-profit.

70.73 Regulations for the Development of a Communication Tower or Antennae

Height Limit - No communications tower or antennae shall be constructed more than 130 feet above average grade level on any parcel or in any zoning district within the corporate limits of the City of Fairhope.

Permitted Districts -

M2 - General Industrial District: A communications tower that does not exceed 65 feet above average grade level is permitted by right in the M2- General Industrial District. A tower greater than 65 feet in height requires approval as a Special Exception by the Zoning Board of Adjustment.

M1- Light Industrial: All communications towers in this district require Special Exception approval by the Zoning Board of Adjustment.

Prohibited Districts - A communication tower or antenna is prohibited in all remaining zoning districts, not specifically and expressly indicated in this ordinance.

Special Exceptions Required by the Zoning Board of Adjustment -

M2- General Industrial District: All towers greater than 65 feet require approval by the Zoning Board of Adjustment.

M1- light Industrial District: All towers in this district require approval by the Zoning Board of Adjustment.

Preservation of Historic Structure / Site / Districts - A communication tower or antenna is prohibited within 300 feet of a registered historic structure, site, or a historic district as established by the City of Fairhope, Alabama; Baldwin County, Alabama; the State of Alabama; or the Federal Government.

70.74 Collocation Requirements

All communication towers or antennae which are 65 feet or greater above grade level shall be designed to maximize shared use to the maximum extent structurally possible.

70.75 Separation Requirements

All communication towers and antennae shall conform to the separation distances listed in Table 7-1. An antenna that collocates on an existing communication tower or antenna is exempt from this requirement.

Table 7-1

	Separation Distance	
Less than 65'		Between 65'-130'
1,000' between towers*		1,500 between towers*
	Distance is from property line to property line	

Maximum Number of Towers - There shall only be one (1) communication tower or antenna structure allowed per lot of record.

Safety - A communications tower or antenna shall be located in such a manner that if the structure should fail and fall along it's longest dimension it will remain within property boundaries and avoid habitable structures, publicly dedicated streets or alleys, utility lines, and other towers or antennae.

70.76 Visual Impacts

Paint - All communications towers or antennae not requiring FAA painting or marking shall have an exterior finish which is painted a dull blue, gray, or black.

70.77 Landscaping

All communications towers or antennae shall conform to the landscaping requirement of the zoning district it is located in.

70.78 Noise

No communications tower or antenna shall produce noise from generators, air conditioners, or other machinery that impacts adjoining property.

70.79 Illumination

No communication tower or antenna shall have illumination other than that required by the FAA.

70.80 Signage

Advertising signs of any type are prohibited to locate on any communication tower or antenna regardless of height.

70.81 Fences

Any fences constructed on site shall conform to the fence regulations for the City of Fairhope.

70.82 Access and Parking

Access - All communication towers or antennae shall provide a paved (concrete or asphalt) driving surface constructed to City standards to the site.

Parking - a communication tower or antenna site shall provide one (1) paved (concrete or asphalt) parking space.

70.83 Structural Requirements

All towers must be designed and certified by a registered professional engineer that states that the design and plans of the proposed project meets the minimum requirements established in the approved building code for the City of Fairhope and the structural requirements of this section.

Steps - All towers shall provide steps for access for inspection and maintenance purposes.

Wind Load - All communications towers and antennae shall provide information relative to the wind load design.

Materials - All communications towers or antennae shall be constructed of suitable metal that provides the necessary strength and rigidity to meet the technical requirements established in this section.

Guy Wires - If guy wires are proposed, they must be on the same lot of record as the communication tower or antennae and shall not cross, bisect, or encroach upon any property not owned or leased by the applicant.

Ground - All communication towers and antennae shall be permanently and effectively grounded.

70.84 Building Permit Submittal

Building Permit Required - All communication tower and antennae construction requires a Building Permit.

All Building Permits must furnish and provide the following information:

1) The name, address and telephone number of the owner and lessee of the parcel of land which the tower is proposed. If the applicant is not the owner a notarized letter of permission for building permit application is required.

2) The legal description of the property.

3) The names and addressees of all property owners within 300 feet of the subject property.

4) Written documentation describing efforts to collocate on existing communication towers and/ or antennae. Written documentation that describes why the applicant cannot collocate.

5) Written documentation and signed, sealed engineering plans certifying that the structure will withstand the technical loads set forth in this ordinance.

6) Certification from a professional engineer that states that the proposed structure is capable of providing space for other users.

7) Written documentation from the Federal Aviation Agency approving the proposed communications tower or antenna.

70.85 Removal of Unsafe Communications Tower or Antenna

All towers and antennas shall be maintained in compliance with standards contained in applicable building codes so as to ensure the structural integrity of the towers. If upon inspection by the Building Official the tower is determined not to comply with the code standards or constitutes a danger to persons or property and the tower is not made safe or removed within ninety (90) days of notification from the City notifying the owner of the unsafe tower or antenna, the City may remove the tower or antenna and place a lien upon the property for the costs of the removal.

70.86 Abandoned Towers

Any tower or antenna that is not operated for any continuous period of twelve (12) months shall be considered abandoned, and the owner of such tower or antenna and the owner of the property where the tower or antenna is located shall remove the tower or antenna within ninety (90) days of notification from the City to remove the tower or antenna.

1) If the communication tower or antenna is not removed with the notification time period, the City may remove the tower or antenna and place a lien on the property for the cost of the removal.

2) If the owner of an abandoned communications tower or antenna wishes to use the abandoned tower or antenna, the owner must first apply for and receive all applicable permits and meet all of the conditions of this article as if the tower or antenna were a new structure and investment.

70.87 Appeal

Any applicant aggrieved by this ordinance has the legal right to appeal administrative decisions to the Zoning Board of Adjustment. All appeals must conform to the procedures established in the Zoning Ordinance of the City of Fairhope and those prescribed in State Law.

2. Severability Clause

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

3. Effective Date

This ordinance shall be in full force upon its adoption and publication as provided by law.

Adopted this 26th Day of July, 1999

James P. Nix, Mayor

Attest:

Geniece W. Johnson, City Clerk

Ord. No. 1058 Published in THE FAIRHOPE COURIER on 7/31/99 City Clerk

ORDINANCE NO. 1138

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY IN THE VICINITY OF THE FAIRHOPE MUNICIPAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; ESTABLISHING HEIGHT LIMITS WITHIN SUCH ZONES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE FAIRHOPE MUNICIPAL AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; AND PROVIDING REMEDIES FOR VIOLATIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA, WHILE IN REGULAR SESSION AT THE FAIRHOPE CITY HALL ON 10 DECEMBER 2001, as follows:

ARTICLE 1. AUTHORITY AND ENACTMENT CLAUSE

The City Council of the City of Fairhope, Alabama, in pursuance of the authority granted by Titles 4, Chapter 6, Section 1 through 15, Code of Alabama, 1975, hereby ordains and enacts into law the following sections.

ARTICLE 2. SHORT TITLE

This Ordinance shall be known as and may be cited as "The Airport Height Zoning Ordinance of the City of Fairhope, Alabama."

ARTICLE 3. FINDINGS

It is hereby found that an obstruction to navigable airspace has the potential for endangering the lives and property of users of the Fairhope Municipal Airport and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Fairhope Municipal Airport; and that an obstruction may reduce the size of areas available for the landing, take off, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Fairhope Municipal Airport and the public investment therein. Accordingly, it is declared:

1. That the creation, establishment or maintenance of an obstruction has the potential of being a public nuisance and may injure the area served by the Fairhope Municipal Airport;

2. That it is necessary in the interest of the public health, public safety, and general welfare that the creation, establishment, or maintenance of obstructions that are a hazard to air navigation be prevented;

3. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercised of the police power without compensation; and,

4. That the Fairhope Municipal Airport fulfills an essential community purpose.

ARTICLE 4. PURPOSE AND APPLICABILITY

1. Purpose –

The purpose of these regulations is to promote the health, safety and general welfare of the inhabitants of the City by preventing the creation, establishment, or maintenance of hazards to aircraft; preventing the destruction or impairment of the utility of the Fairhope Municipal Airport and the public investments therein; and protecting the lives and properties of owners or occupants of lands in the vicinity of said airport as well as the users of said airport.

2. Applicability

The regulations set forth herein are applicable to all lands lying within all Approach, Transitional, Horizontal, Conical Zones which are delineated on the Fairhope Municipal Airport Height Zoning Map adopted as part of the Airport Height Zoning Ordinance of the City of Fairhope, Alabama.

ARTICLE 5. DEFINITIONS

For the purpose of the Ordinance, certain terms and words are defined as follows:

(1) Airport - Fairhope Municipal Airport.

(2) Airport Board - The public advisory board serving the City of Fairhope in matters relating to the airport.

(3) Established Airport Elevation - 94.0 feet above Mean Sea Level.

(4) Approach Surface - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the ends of the primary surface and at the same slope as the approach zone height limitation slope set forth in Article 7 of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

(5) Approach, Transitional, Horizontal, and Conical Zones - These zones are set forth in Article 6 of the Ordinance.

(6) Conical Surface - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

(7) Hazard to Air Navigation - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

(8) Height - For the purpose of determining the height limits in all zones set forth in the Ordinance and shown on the airport zoning map, the datum shall be Mean Sea Level unless otherwise specified.

(9) Horizontal Surface - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

(10) Nonconforming Use - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of the Ordinance or an amendment thereto.

(11) Non-precision Instrument Runway - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

(12) Precision Instrument Runway - A runway having an existing precision instrument approach procedure utilizing an instrument landing system (ILS) equipment, a Precision Approach Radar (PAR), or Global Positioning System (GPS) equipment. It also means a runway for which a precision approach(s) is planned.

(13) Obstruction - Any structure, growth, or other object, including a temporary or mobile object, which exceeds a limiting height set forth in Article 7 of this Ordinance.

(14) Person - An individual, firm, partnership, limited partnership, corporation, company, association, joint stock association or government entity; including a trustee, a receiver, an assignee, or a similar representation of any of them.

(15) Primary Surface -A surface longitudinally centered on the runway. The primary surface extends 200 feet beyond each end of the runway. The width of the primary surface 1,000 feet. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(16) Runway - A defined area on an airport prepared for landing and take-off of aircraft along its length.

(17) Structure - An object, including a temporary or mobile object, constructed or installed by man, including but without limitation, buildings, bridges, poles, antennas, towers, cranes, smokestacks, earthen formations, and overhead transmission lines.

(18) Transitional Surfaces -These surfaces extend outward and upward at right angles to the runway centerline and the extended runway centerline at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000-feet measured horizontally from the edge of the approach surface and at right angles to the extended runway centerline.

(19) Tree - Any object of natural growth.

(20) Visual Runway - A runway intended solely for the operation of aircraft using visual approach procedures.

ARTICLE 6. AIRPORT ZONES

To carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the Approach Surfaces, Transitional Surfaces, Horizontal Surface, and Conical Surface as they apply to the Fairhope Municipal Airport. Such zones are shown on the Fairhope Municipal Airport Height Zoning Map which is attached to this Ordinance and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

1. Primary Zone -The primary zone extends 200 feet beyond each end of the runway. The width of the primary zone is 1,000 feet. No structure or obstruction will be permitted within the primary zone that is not essential to air navigation or the movement of aircraft.

2. Non-precision Instrument Approach Zone - The inner edge of the Non-precision Instrument Approach Zone coincides with the width of the primary zone and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at the horizontal distance of 10,000 feet from the primary zone. Its center line is the continuation of the centerline of the runway.

3. Precision Instrument Approach Zone - The inner edge of the Precision Instrument Approach Zone coincides with the width of the primary zone and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at the horizontal distance of 50,000 feet from the primary zone. Its center line is the continuation of the centerline of the runway.

4. Transitional Zones - The transitional zones are the areas beneath the Transitional Surfaces.

5. Horizontal Zones - The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of the instrument runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

6. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.

ARTICLE 7. AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height exceeding the elevation of any corresponding approach, transitional, horizontal, or conical surface. Applicable heights of the approach, transitional, horizontal, or conical surfaces, at various distances from the primary zone, are established as follows:

1. Non-precision Instrument Approach Zone - The Non-precision Instrument Approach Surface slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

2. Precision Instrument Approach Zone- The Precision Approach Zone slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet, with an additional 40,000 feet at a slope of forty (40) feet outward and one foot upward.

3. Transitional Zones - Transitional surfaces slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 244 feet (MSL). In addition to the foregoing, transitional surfaces for portions of the precision approach surface project through and beyond the limits of the conical surface and extend a distance of 5,000 feet measured horizontally from the edge of the approach surface. These transitional surfaces slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the precision approach surface.

4. Horizontal Zone - The horizontal surface for the Fairhope Municipal Airport is established at 244 feet above mean sea level.

5. Conical Zone - The conical surface slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone for a horizontal distance of 4,000 feet.

6. Excepted Height Limitations - Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure or growth of any tree to a height up to 35 feet above the surface of the land, except where such structure or tree will be an obstruction to the height limitations described above.

ARTICLE 8. USE RESTRICTION

Notwithstanding any other provisions of the Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create physical or electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, take off, or maneuvering of aircraft intending to use the airport.

ARTICLE 9. NONCONFORMING USES

1. Regulations Not Retroactive - The regulations prescribed in this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with continuance of a nonconforming use. Nothing contained therein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted to completion within a reasonable time after such effective date.

2. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such obstruction markings and obstruction lights as shall be deemed necessary by the Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such obstruction markings and obstruction lights shall be installed, operated, and maintained at the expense of the City of Fairhope, Alabama.

ARTICLE 10. PERMITS

1. Future Uses - Except as specifically provided in a, b, and c hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any prescribed zone hereby created unless a permit has been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this ordinance shall be granted unless a variance has been approved in accordance with Article 10, Section 4, of this Ordinance.

   a. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

   b. In areas lying within the limits of the approach zones but at a horizontal distance of not less than 5,000 feet from each end of the runway, no permit shall required for any tee or structure less than fifty feet of vertical height above the ground, except when such tree or structure would extend above the height prescribed for such approach zones.

   c. In the areas lying within the limits of the transition zones beyond the perimeter of the conical zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structures, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance except as set forth in Article 7, Section 6.

2. Existing Uses - No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation, than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

3. Nonconforming Uses Abandoned or Destroyed - Whenever the Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than 50 percent destroyed, physically deteriorated, or decayed (based on assessed value), no permit shall be granted that would allow such tree or structure to exceed the applicable height limit or otherwise deviate from the zoning regulations.

4. Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree or use property not in accordance with the regulations prescribed in the Ordinance, may apply to the Board of Adjustments and Appeals for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of the Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Board of Adjustments and Appeals unless a copy of the application and FAA determination has been furnished to the Airport Board for advice as to the aeronautical effects of the variance. If the Airport Board does not respond to the application within 15 days after receipt, the Board of Adjustments and Appeals may act on its own to grant or deny said application.

5. Obstruction Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of the Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustments and Appeals, this condition may be modified to require the owner to permit the Airport Authority of the City of Fairhope, at its own expense, to install, operate, and maintain the necessary markings and lights.

6. Permit Application Requirements - An application for a permit shall be accompanied by a plat or plan showing the exact location of the lot to be built upon and the elevation, height, and location of the proposed building, structure, or use to be placed thereon, together with such other information as the zoning compliance officer may deem necessary to enforce properly the provisions of this Ordinance.

ARTICLE 11. ENFORCEMENT

It shall be in the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form published for that purpose. Applications required by this Ordinance to be submitted to the Zoning Administrator shall be promptly considered and granted or denied. Application for action by the Board of Adjustments and Appeals shall be forthwith transmitted by the Zoning Administrator.

ARTICLE 12. BOARD OF ADJUSTMENTS AND APPEALS

1. Powers - Board of Adjustments and Appeals shall have and exercise the following powers:

    a. To authorize in specific cases such as variance from the terms of the Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done. The Board shall not grant a variance to the terms of this Ordinance if the hardship is self-imposed by the applicant.

    b. To hear and decide special exceptions to the terms of this Ordinance upon which the Board of Adjustments and Appeals may be required to pass under these regulations.

    c. To hear and decide appeals form any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of the Ordinance.

2. Basis for Actions - The Board of Adjustments and Appeals shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or Ordinance which comes before under the provisions of this Ordinance.

3. Vote - The concurring vote of a majority of the members of the Board of Adjustments and Appeals shall be sufficient to reverse any order, requirement, decision, or determination of the Zoning Administrator or decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect variation to this Ordinance.

4. Retention of Documents - The Board of Adjustments and Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof, or of such portions thereof, as may be called on by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

ARTICLE 14. JUDICIAL REVIEW

Any person aggrieved by any decision of the Board of Adjustments and Appeals, or the Zoning Administrator, or any governing body of a political subdivision which is of the opinion that a decision of the Board of Adjustments and Appeals or the Zoning Administrator is an improper application of airport zoning regulations of concern to such governing body, may appeal to the Circuit Court of Baldwin County as provided in Title 4, Chapter 6, Section 11, Code of Alabama, 1975.

ARTICLE 15. REMEDIES FOR VIOLATIONS

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, the City Council, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE 16. CONFLICTING REGULATIONS

In the event of conflict between the regulations of this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, and whether such regulations were adopted before or after the Airport Height Zoning Ordinance of the City of Fairhope, Alabama, or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

ARTICLE 17. SEVERABILITY

If any of the provisions of this Ordinance, or the application thereof, to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

ARTICLE 18. AMENDMENTS

The City Council may, from time to time, amend this Ordinance after receiving a report thereon from the Planning Commission. The Planning Commission shall prepare a preliminary report on any proposed amendment and hold public hearings thereon before submitting its final report to the City Council. Upon receipt of the final report from the Planning Commission, the City Council shall cause the proposed amendment to be published at least once a week for two consecutive weeks in advance of its passage in a newspaper of general circulation within the City, or, if there is no such newspaper, then by posting the same in four conspicuous places within the City, together with a notice stating the time and place that the amendment is to be considered by the City Council, and stating further that at such time and place all persons who desire shall have an opportunity to be heard in opposition to or in favor of such regulations. No such regulations shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.

ARTICLE 19. EFFECTIVE DATE

This Ordinance shall take effect and be in force upon its adoption and publication as required by law.

ADOPTED ON THE 10th day of December, 2001

Timothy M. Kant, Mayor

Attest:

Geniece W. Johnson, City Clerk

Ord. No. 1138 Published in THE FAIRHOPE COURIER on 12/15/01 City Clerk

ORDINANCE NO. 1140

AN ORDINANCE REGULATING THE USE OF PROPERTY AND ESTABLISHING NOISE ATTENUATION REQUIREMENTS FOR THE CONSTRUCTION OF CERTAIN STRUCTURES IN THE VICINITY OF THE FAIRHOPE MUNICIPAL AIRPORT BY CREATING AN AIRPORT OVERLAY DISTRICT AND ESTABLISHING THE BOUNDARIES THEREOF; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO FAIRHOPE MUNICIPAL AIRPORT OVERLAY ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; AND IMPOSING PENALTIES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA, WHILE IN REGULAR SESSION AT THE FAIRHOPE CITY HALL ON DECEMBER 20, 2001, as follows:

ARTICLE I AUTHORITY AND ENACTMENT CLAUSE

The City Council of the City of Fairhope, Alabama, in pursuance of the authority granted by Titles 4, Chapter 6, Section 1 through 15, Code of Alabama, 1975, hereby ordains and enacts into law the following sections.

ARTICLE 2 SHORT TITLE

This Ordinance shall be known as and may be cited as "The Airport Overlay District Zoning Ordinance of the City of Fairhope, Alabama."

ARTICLE 3 FINDINGS

It is hereby found that certain land uses are incompatible with noise generated by aircraft using the Fairhope Municipal Airport and that these land uses have the potential to impair the existing and future utility of the Fairhope Municipal Airport and the public investment therein. Accordingly, it is declared:

1. That the establishment and construction of noise sensitive developments in the vicinity of the airport have the potential of limiting the existing and future utility of the airport and may adversely affect the region served by the Fairhope Municipal Airport;

2. That noise sensitive developments in the vicinity of the airport have the potential to become land uses incompatible with airport operations over time and it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of incompatible land uses be prevented.

3. The prevention of the creation or establishment of incompatible land uses, and the elimination, removal, alteration, and mitigation are public purposes.

4. That land in the vicinity of the airport has the potential of being exposed to sound levels of 65 Ldn and higher.

5. That the construction of certain noise sensitive developments in the vicinity of the airport should include outdoor-to-indoor noise attenuation features so as not to be incompatible with existing and future noise levels.

6. That the Fairhope Municipal Airport fulfills an essential community purpose.

ARTICLE 4 PURPOSE AND APPLICABILITY

1. Purpose

The purpose of these regulations is to promote the health, safety, and general welfare of the public by preventing the creation and establishment of land uses incompatible with the operations of the Fairhope Municipal Airport and requiring the incorporation of outdoor-to-indoor noise attenuation measures for the construction of certain structures within the boundary of the Airport Overlay District Zone.

For decades, residential housing has been constructed near airports, often without consideration of the current and future airport noise impacts to homeowners. As a result, millions of federal, state, and local dollars have been used to pay for noise mitigation programs in the United States.

It has been determined that current airport noise impacts to residents in the vicinity of the Fairhope Municipal Airport are minimal. However, the potential for future conflict seems certain given that the area's residential growth and continued plans to promote development in the vicinity of the airport. The purpose of this plan is to promote the implementation of modest measures that will prevent conflicts between future residential homeowners and the airport that could require expensive retroactive noise insulation programs, residential relocation programs, and restrictions on the efficient operation of the Fairhope Municipal Airport.

2. Applicability

The regulations set forth herein are applicable to all lands lying within the Airport Overlay District Zone which is delineated on the Fairhope Municipal Airport Overlay Zoning Map adopted as part of the Airport Overlay District Zoning Ordinance of the City of Fairhope, Alabama.

ARTICLE 5 DEFINITIONS

For the purpose of the Ordinance, certain terms and words are defined as follows:

(1) Airport - Fairhope Municipal Airport.

(2) Airport Board - The advisory board of the City of Fairhope organized to consult the City on matters concerning aviation and the operation of the airport.

(3) Avigation Easement - An easement over a parcel of land for the special purpose of protecting navigable airspace and providing the right to generate noise and other effects caused by the operation of aircraft over said property.

(4) Day-Night Sound Level (Ldn) - A cumulative aircraft noise index which estimates the exposure to aircraft noise and relates the estimated exposure to an expected community response. The Day-Night Sound Level noise metric assesses a 10 dB penalty to all noise events occurring between 10:00 p.m. and 7:00 a.m.

(5) Noise Sensitive Structure - An inhabitable or occupied structure including, but not necessarily restricted to, temporary or mobile structures, apartment buildings, hospitals, schools, churches, day care facilities, hotels, residential structures, condominiums, recreational facilities, commercial buildings, and office buildings, in which the activities of the occupants may be adversely affected by aircraft noise.

(6) Nonconforming Use - Any pre-existing structure or use of land which is inconsistent with the provisions of the Ordinance or an amendment thereto.

(7) Obstruction - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Federal Aviation Regulations Part 77.

(8) Person - An individual, firm, partnership, limited partnership, corporation, company, association, joint stock association or government entity; including a trustee, a receiver, an assignee, or a similar representation of any of them.

(9) Runway - A defined area on an airport prepared for landing and take- off of aircraft along its length.

(10) Structure- An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

ARTICLE 6 AIRPORT ZONES

To carry out the provisions of this Ordinance, there is hereby created and established an Airport Overlay District Zone which includes all of the land lying within the boundary of the Airport Overlay District as it applies to the Fairhope Municipal Airport. The Airport Overlay District is shown on the Fairhope Municipal Airport Overlay District Map which is attached to this Ordinance and made a part hereof.

ARTICLE 7 AIRPORT NOISE OVERLAY DISTRICT REQUIREMENTS

Except as otherwise provided in this Ordinance, noise sensitive structures erected or substantially altered within the boundary of the Airport Overlay District are required to incorporate outdoor-to-indoor noise level reduction measures into the design and/or construction of the structure.

1. Noise Attenuation Performance Standards - The performance standard for the level of sound attenuation for noise sensitive structures constructed in the Airport Overlay District Zone will be equivalent to achieving an interior noise level of 45 dB (A-weighted) when the structure is exposed to an outdoor noise exposure level of 65 Ldn or higher.

2. Noise Attenuation Methods - Noise reduction may be accomplished through design standards and/or construction materials. Noise attenuation design measures and materials are referenced in the City Standard Building Code of the City of Fairhope, as amended. In all cases, construction must conform with the general requirements of the City Standard Building Code of the City of Fairhope, as amended.

3. Noise Attenuation in Noise Sensitive Commercial Structures - Only those portions of commercial structures associated with noise sensitive activities must incorporate noise level reduction measures sufficient to achieve an interior noise level of 45 dB (A-weighted) when the structure is exposed to an outdoor noise exposure level of 65 Ldn or higher.

4. Architect or Engineer Review – An architect or engineer must review the plans to determine if the building design complies substantially with the intent of the ordinance.

5. Avigation Easement - The owner applying for approval to construct a noise sensitive structure or residential subdivision within the area under the Runway Approach Surfaces located within the Airport Noise Overlay District shall agree to grant to the Fairhope Airport Authority, without compensation, an avigation easement for the passage of aircraft and the right to cause in all airspace above the surface of the Grantor's property such noise and other effects that may be caused by aircraft operating at the Fairhope Municipal Airport.

ARTICLE 8 USE RESTRICTION

Notwithstanding any other provisions of the Ordinance, no use may be made of structures, land, or water within the Airport Overlay District Zone established by this Ordinance in such a manner as to create physical or electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, take off, or maneuvering of aircraft intending to use the airport.

ARTICLE 9 NONCONFORMING USES

1. Regulations Not Retroactive - The regulations prescribed in this Ordinance shall not be construed to require the removal, soundproofing, or other change or alteration of any noise sensitive structure not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with continuance of a nonconforming use. Nothing contained therein shall require any change in the construction, alteration, or intended use of any noise sensitive structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted to completion within a reasonable time after such effective date.

2. Building Additions - A non-conforming noise sensitive structure existing at the time this Ordinance is enacted may be extended or enlarged, provided the extension or enlargement to the structure meets the requirements of this Ordinance.

3. Nonconforming Uses Abandoned or Destroyed - Whenever the Zoning Administrator determines that a nonconforming noise sensitive structure has been abandoned, or more than 50 percent destroyed, physically deteriorated, or decayed (based on assessed value), the rebuilding or repair of the structure will require that the owner comply with the requirements of this Ordinance

ARTICLE 10 PERMITS

1. Permit Required - No noise sensitive structure shall be erected or otherwise established in the Airport Overlay District hereby created unless a permit has been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to determine whether the resulting structure would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this ordinance shall be granted unless a variance has been approved in accordance with Article 10, Section 2, of this Ordinance.

2. Variances - Any person desiring to erect or substantially alter a noise sensitive structure not in accordance with the regulations prescribed in the Ordinance, may apply to the Board of Adjustments and Appeals for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create, or have the potential to create, an incompatible land use, will do substantial justice, and will be in accordance with the spirit of the Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Board of Adjustments and Appeals unless a copy of the application has been furnished to the Airport Authority for advice as to the effect of the variance on the current and long-term operation of the airport. If the Airport Authority does not respond to the application within 15 days after receipt, the Board of Adjustments and Appeals may act on its own to grant or deny said application.

3. Permit Application Requirements - An application for a permit shall be accompanied by a plat or plan showing the location of the lot to be built upon and the location of the proposed structure; a certification from a registered architect, engineer, or acoustician that the plans for the structure include noise attenuation measures adequate to meet the requirements of this Ordinance; together with such other information as the Zoning Administrator may deem necessary to enforce properly the provisions of this Ordinance.

ARTICLE 11 ENFORCEMENT

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form published for that purpose. Applications required by this Ordinance to be submitted to the Zoning Administrator shall be promptly considered and granted or denied. Application for action by the Board of Adjustments and Appeals shall be forthwith transmitted by the Zoning Administrator.

ARTICLE 12 BOARD OF ADJUSTMENTS AND APPEALS

1. Powers - The Board of Adjustments and Appeals shall have and exercise the following powers:

   a. To authorize in specific cases such variance from the terms of the Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done. The Board shall not grant a variance to the terms of this Ordinance if the hardship is self-imposed by the applicant.

   b. To hear and decide special exceptions to the terms of this Ordinance upon which the Board may be required to pass under these regulations.

   c. To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of the Ordinance.

2. Basis for Actions - The Board of Adjustments and Appeals shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or Ordinance which comes before under the provisions of this Ordinance.

3. Vote - The concurring vote of a majority of the members of the Board of Adjustments and Appeals shall be sufficient to reverse any order, requirement, decision, or determination of the Zoning Administrator or decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect variation to this Ordinance.

4. Retention of Documents - The Board of Adjustments and Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called on by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

ARTICLE 14 JUDICIAL REVIEW

Any person aggrieved by any decision of the Board of Adjustments and Appeals or the Zoning Administrator, or any governing body of a political subdivision which is of the opinion that a decision of the Board of Adjustments and Appeals or the Zoning Administrator is an improper application of airport zoning regulations of concern to such governing body, may appeal to the Circuit Court of Baldwin County as provided in Title 4, Chapter 6, Section 11, Code of Alabama, 1975.

ARTICLE 15 REMEDIES FOR VIOLATIONS

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, the City Council, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE 16 CONFLICTING REGULATIONS

In the event of conflict between the regulations of this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the use of land or any other matter, and whether such regulations were adopted before or after the Airport Overlay District Zoning Ordinance of the City of Fairhope, Alabama, or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

ARTICLE 17 SEVERABILITY

If any of the provisions of this Ordinance or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

ARTICLE 18 AMENDMENTS

The City Council may, from time to time, amend this Ordinance after receiving a report thereon from the Planning Commission. The Planning Commission shall prepare a preliminary report on any proposed amendment and hold public hearings thereon before submitting its final report to the City Council. Upon receipt of the final report from the Planning Commission , the City Council shall cause the proposed amendment to be published at least once a week for two consecutive weeks in advance of its passage in a newspaper of general circulation within the City, or, if there is no such newspaper, then by posting the same in four conspicuous places within the City, together with a notice stating the time and place that the amendment is to be considered by the City Council, and stating further that at such time and place all persons who desire shall have an opportunity to be heard in opposition to or in favor of such regulations. No such regulations shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.

ARTICLE 19 EFFECTIVE DATE

This Ordinance shall take effect and be in force upon its adoption and publication as required by law.

ADOPTED ON THE 20TH day of DECEMBER, 2001

Timothy M. Kant, Mayor

Attest:

Geniece W. Johnson, City Clerk

Ord. No. 1140 Published in THE FAIRHOPE COURIER on 12/29/01 City Clerk

ORDINANCE NO. 1550

AN ORDINANCE AMENDING ORDINANCE NO. 1253 KNOWN AS THE ZONING ORDINANCE

The ordinance known as the Zoning Ordinance (No. 1253), adopted 27 June 2005, is changed and altered as described below;

WHEREAS, the City of Fairhope Planning Commission directed the Planning Department to prepare amendments to our Zoning Ordinance; and,

WHEREAS, the proposed amendments relate to revisions of the parking requirement section to include provisions for low impact development strategies and inserting additional definitions; and,

WHEREAS, after the appropriate public notice and hearing of ZC 15.07, the Planning Commission of the City of Fairhope, Alabama has forwarded a favorable recommendation;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA;

THAT, Article 4, Site Design Standards, Section E Parking is hereby revised as follows:

1. Insert a new subsection 3 that reads:

    a. Compact Car Parking Requirement:
    Compact car parking spaces shall be a minimum of 30% of the required parking spaces and no more than a maximum of 40% of the required parking spaces. Compact car spaces shall be grouped together to the greatest extent possible. Compact car spaces shall be designated by paint at the entrance of the parking stall.

2. Insert a new subsection 4 that reads:

    a. Parking Dimension and Size:
    1) Standard parking lot dimensions
    2) Compact car parking dimensions

	90°angle	60°angle	45°angle
width	8'	8'	8'
depth	15'	16.8'	16.5'

3. The existing subsection 4 is re-numbered to section 5

4. Insert a new subsection 6 that reads:

    a. Low Impact Development (LID) Parking Requirements

    Landscaping is required for all parking lots. The interior parking lot landscaping requirements shall use LID techniques and be designed by an Alabama licensed Professional Engineer and an Alabama licensed Landscape Architect or designer. The following LID techniques shall be used in the interior of all parking lots containing 12 or more parking spaces. The LID parking requirement landscape plan will be reviewed in accordance with the Tree Ordinance. Any landscaping plan submitted in accordance with this subsection shall include technique 5 below and at least one of the other following techniques:

1) First Flush Treatment: The LID landscaping design shall be sized appropriately to treat the first one inch of runoff into the receiving parking lot LID area.
2) Bio-retention.
3) Rain Garden.
4) Vegetated Swale.
5) Permeable Pavement Systems: Permeable pavement systems are a required LID technique. 100% of parking provided over and above the minimum parking requirements shall be permeable pavement systems. Typical systems are brick pavers, pervious asphalt, and pervious concrete. Other systems may be approved if the design engineer provides adequate documentation that demonstrates the proposed technique is equally or more effective that the typical permeable systems listed. Approval of a proposed technique is at the sole discretion of the City during the permitting process.
6) Tree and Ground Cover Plantings: When trees are required in a parking lot by the Tree Ordinance they shall be included and integrated into the LID design. Species shall be as approved by the City Horticulturist and must be suggested by the landscape architect or designer. There shall be no bare ground exposed and all ground cover proposed shall be integral to the success of LID techniques. All ground cover shall be as approved by the City Horticulturist and must be suggested by the landscape architect or designer.

5. That Article IX Definitions and Interpretation Section C. defined terms are amended to add the following:

   a. Bioretention: This technique removes pollutants in stormwater runoff through adsorption, filtration, sedimentation, volatilization, ion exchange, and biological decomposition. A Bioretention Cell (BRC) is a depression in the landscape that captures and stores runoff for a short time, while providing habitat for native vegetation that is both flood and drought tolerant. BRCs are stormwater control measures (SCMs) that are similar to the homeowner practice, of installing rain gardens, with the exception that BRCs have an underlying specialized soil media and are designed to meet a desired stormwater quantity treatment storage volume. Peak runoff rates and runoff volumes can be reduced and groundwater can be recharged when bioretention is located in an area with the appropriate soil conditions to provide infiltration. Bioretention is normally designed for the water quality or "first flush" event, typically the first 1"-1.5" of rainfall, to treat stormwater pollutants.

   b. Vegetated Swale: is a shallow, open-channel stabilized with grass or other herbaceous vegetation designed to filter pollutants and convey stormwater. Swales are applicable along roadsides, in parking lots, residential subdivisions, commercial developments, and are well suited to single-family residential and campus type developments. Water quality swales are designed to meet sheer stress targets for the design storm, may be characterized as wet or dry swales, may contain amended soils to infiltrate stormwater runoff, and are generally planted with turf grass or other herbaceous vegetation.

   c. First Flush: This is the given volume of water generated in the drainage area from the first 1" to 1.5" of rainfall.

d. Rain Garden: a shallow depression in a landscape that captures water and holds it for a short period of time to allow for infiltration, filtration of pollutants, habitat for native plants, and effective stormwater treatment for small-scale residential or commercial drainage areas. Rain gardens use native plants, mulch, and soil to clean up runoff.

SEVERABILITY CLAUSE - if any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect not withstanding such holding.

EFFECTIVE DATE – This ordinance shall take effect immediately upon its due adoption and publication as required by law.

ADOPTED THIS 12TH DAY OF OCTOBER, 2015

Timothy M. Kant, Mayor

ATTEST:

Lisa A. Hanks, MMC
City Clerk

Ord. No. 1550 Published in
FAIRHOPE COURIER
on Friday, October 23, 2015
Lisa Hanks City Clerk