City of Daleville Zoning Ordinance (Adopted)

CITY OF DALEVILLE, ALABAMA

ZONING ORDINANCE

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Article 1 Title, Authority and Scope

ARTICLE 1. TITLE, AUTHORITY AND SCOPE

§1.01. Short Title

This ordinance shall be known as the "Zoning Ordinance of the City of Daleville, Alabama," and the map herein referred to and identified by the title "Zoning Map of Daleville," signed by the mayor and attested by the city clerk. The zoning map and all explanatory matter thereon is hereby adopted and made a part of this ordinance. The zoning map shall be filed in the office of the city clerk and shall show thereon the date of adoption of this ordinance.

§1.02. Authority

This Ordinance has been prepared, subject to public review, recommended by the Daleville Planning Commission, and adopted by the Daleville City Council under the authority of Title 11, Chapter 52 of the Code of Alabama, 1975 Compilation, as amended.

§1.03. Scope

1.03.01. Applicability. The provisions of this Ordinance shall apply to all property located within the city limits of the City of Daleville. All uses, structures, sites, lots and parcels must be in compliance with the provisions of this Ordinance.

No business license shall be issued for the use of a property unless such use and such property are in compliance with the provisions of this Ordinance.

1.03.02. Minimum Requirements. The provisions of this Ordinance shall be considered minimum requirements to promote the public health, safety, and welfare. The provisions of this Ordinance shall not lower the restrictions of plats, deeds or private contracts, if such are greater than the provisions of this Ordinance.

1.03.03. Conflict with Other Regulations. Wherever there is a conflict between the provisions of this Ordinance and those of any statute, or any local law or regulation, the most restrictive of such provisions shall apply and be enforced.

1.03.04. Severability. If any clause, portion, provision, or section of this Ordinance is held to be invalid by any court of competent jurisdiction, such holding shall not render invalid any other clause, portion, provision, or section.

1.03.05. Repeal of Conflicting Ordinances. On the effective date of this Ordinance, all other local Ordinances or parts of Ordinances in conflict or inconsistent with this Ordinance, and all amendments thereto, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

§1.04. Establishment of Districts

The following zoning districts are hereby established, as depicted on the Official Zoning Map:

1.04.01. Residential Districts

a) R-100 Very Low Density Residential District. Provides areas for detached single-family

dwellings on large lots, along with other uses customary to residential neighborhoods, subject to restrictions as may be necessary to protect the enjoyment and welfare of such neighborhoods.

b) R-85 Low Density Residential District. Provides areas for detached single-family dwellings

on large lots, along with other uses customary to residential neighborhoods, subject to restrictions as may be necessary to protect the enjoyment and welfare of such neighborhoods.

c) R-75-S Medium Density Residential District. Provides areas for detached single-family

dwellings, along with other uses customary to residential neighborhoods, subject to restrictions as may be necessary to protect the enjoyment and welfare of such neighborhoods.

d) R-75-M Medium Density Residential District. Provides areas for detached single-family,

duplex and multiplex dwellings along with other uses customary to residential neighborhoods, subject to restrictions as may be necessary to protect the enjoyment and welfare of such neighborhoods.

e) R-65 Multifamily Residential District. Provides areas for multifamily, duplex, multiplex and

detached single-family dwellings along with other uses customary to residential neighborhoods, subject to restrictions as may be necessary to protect the enjoyment and welfare of such neighborhoods.

f) R-50 Garden Home Residential District. Provides areas for detached single-family dwellings

on small lots along with other uses customary to residential neighborhoods, subject to restrictions as may be necessary to protect the enjoyment and welfare of such neighborhoods.

g) TH-16 Townhouse Residential District. Provides areas for attached single-family dwellings

on narrow lots along with other uses customary to residential neighborhoods, subject to restrictions as may be necessary to protect the enjoyment and welfare of such neighborhoods.

h) TH-20 Townhouse Residential District. Provides areas for attached single-family dwellings

along with other uses customary to residential neighborhoods, subject to restrictions as may be necessary to protect the enjoyment and welfare of such neighborhoods.

i) T-100 Manufactured Home Residential District. Provides areas for detached single-family

dwellings and manufactured homes on individual lots along with other uses customary to residential neighborhoods, subject to restrictions as may be necessary to protect the enjoyment and welfare of such neighborhoods.

j) T-50 Manufactured Home Park Residential District. Provides areas for manufactured home parks, recreational vehicles parks and select uses customary to residential neighborhoods.

1.04.02. Nonresidential Districts.

a) B-3 General Commercial District. Provides areas for a variety of business and commercial uses convenient to the public, along with other uses compatible with and supportive of business and commercial uses.

b) B-4 Planned Commercial District. Provides areas for retail, dining, services and other business and commercial uses and select other uses compatible with and supportive of a retail environment, in which development plans are subject to review and approval by the Planning Commission.

c) INST Institutional District. Provides areas for public, semipublic and private institutions and similar, compatible uses.

d) M-1 Light Industrial District. Provides areas for industrial uses with limited environmental impacts along with commercial uses compatible with light industries.

e) M-2 General Industrial District. Provides areas for industrial uses, subject to restrictions as may be necessary to lessen potential environmental impacts, along with select commercial uses compatible with industrial development.

1.04.03. Agricultural Districts.

AGR-2 General Agricultural District. Provides areas for a variety of agricultural activities along with other compatible uses, subject to restrictions as may be necessary to preserve the very low-density, rural character of such areas.

§1.05. Zoning Map

1.05.01. The Zoning Map designates the boundaries of the various zoning districts established in the City. Changes made in zoning district boundaries or other matters affecting the Official Zoning Map shall be made in accordance with §10.06 Amendments.

1.05.02. Unless otherwise shown on said zoning map, the boundaries of districts are lot lines, the center lines of streets or alleys or such lines extended, railroad right-of-way lines, or natural boundary lines such as natural or artificial water courses. Where uncertainty exists as to the boundaries of any district, the following rules shall apply:

a) Where boundaries are indicated as approximately following right-of-way lines or lot lines, such lines shall be construed to be such boundaries.

b) In unsubdivided property or tracts, where a district boundary divides a lot, the location of

such boundary, unless indicated by dimensions, shall be determined by use of the scale appearing on such maps.

c) Where boundaries are so indicated that they are approximately parallel to the center lines

of streets or alleys, such boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said maps.

d) In case any further uncertainty exists, the Board of Adjustment shall determine the location

of boundaries. The Board of Adjustment may also cause to be prepared sectional maps of any part of the city which will interpret the exact location of the district boundaries, following the guidelines contained in the preceding paragraphs.

§1.06. Annexed Property

Following the adoption of this Ordinance, any property annexed into the City shall be immediately and automatically placed in the AGR-2 District, or such district(s) as determined by the City Council to be compatible with the intent of the Comprehensive Plan. Any subsequent rezoning of such property shall follow the procedures for map amendments set forth in this Ordinance.

§1.07. Abandoned Right-of-Way

Whenever any street, alley or other public way is vacated or abandoned by official action of the City the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of same.

§1.08. Transitional Rules

This Ordinance shall apply to applications submitted and accepted on or after the effective date of this Ordinance. This Ordinance shall not affect any complete application that has been submitted and accepted for review, but for which no final action has been taken by the appropriate decision-making body, prior to this effective date. Such application shall be acted on under the law in effect prior to the effective date of this Ordinance.

When a development plan has been started or approved under a previous version of this Ordinance, it may be completed only as follows:

1.08.01. If development, for which a subdivision plat or building permit was approved prior to the effective date of this Ordinance, fails to meet any time frames in effect for that development at the time of approval, then said approval shall expire; and future development shall be subject to this Ordinance.

1.08.02. Any violation of the previous ordinance shall be a violation under this Ordinance and shall be subject to the penalties set out in §10.11 Penalty and Remedies, unless the development, use or other activity complies with this Ordinance.

ARTICLE 2. DEFINITIONS

§2.01. General

For the purpose of this Ordinance, certain terms herein shall have the meanings defined by this Article. In the event a term is not defined in this Article or elsewhere in this Ordinance, the conventional meaning of the term shall apply.

The Administrative Official is authorized to make a final determination of the meaning of any term used in this Ordinance. In the case of any dispute, an appeal of the Administrative Official's determination may be filed with the ZBA.

§2.02. Word Usage

In the interpretation of this Ordinance, the provisions and rules of this Section shall be observed and applied, except when the context clearly requires otherwise. Words used or defined in one tense or form shall include the other tenses and derivative forms. Words in the singular number shall include the plural number and words in the plural number shall include the singular number. The masculine gender shall include the feminine and the feminine gender shall include the masculine. The world “shall” is mandatory and the word “may” is permissive. The word “person” includes an individual, firm, association, organization, partnership, trust, company or corporation.

§2.03. Words and Phrases Defined

2.03.01. Abutting. Touching along a common side, boundary or property line. Properties that are separated by a right of way are “Adjacent”, but not “Abutting”.

2.03.02. Access. A way or means of approach to provide physical entrance to a property.

2.03.03. Building, Accessory. A subordinate building on the same lot as the principal building.

2.03.04. Accessory Dwelling. A dwelling located on the same lot of and that is subordinate to a detached, single-family dwelling. Accessory dwellings are also commonly referred to as guest houses or mother-in-law units.

2.03.05. Accessory Structure. A structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use.

2.03.06. Accessory Use. A use of land or of a building or portion thereof commonly associated with and integrally related to the principal use of the land or building on the same lot.

2.03.07. Addition. A structure added to the original structure at some time after initial completion of or after a Certificate of Occupancy has been issued for the original structure.

2.03.08. Adjacent. Either abutting or on the opposite side of a street, right of way, or easement that separates it from the subject property. However, properties separated by a railroad shall not be considered “Adjacent”.

2.03.09. Administrative Official. The municipal official designated by the city council to administer and enforce this ordinance. The Administrative Official is a representative of the Planning Commission, exercising the authority of the Commission, and functions under rules developed by the Commission.

2.03.10. Adult-oriented Use. Any business that, measured on a daily, weekly, monthly or yearly basis, 1) has more than 25% of its inventory, stock-in-trade, or publicly displayed merchandise in age-restricted materials; 2) devotes more than 25% of its floor area (not including any portion of the business not open to the public) to age-restricted materials; 3) derives more than 25% of its gross revenues from age-restricted materials; and/or 4) engages for any length of time in age-restricted activities.

2.03.11. Age-restricted Materials or Activities. Any materials or activities that under state law may not be sold or otherwise provided to minors for compensation. For the purposes of this ordinance, this term shall not include tobacco or similar nicotine-based products, alcohol, firearms, fireworks, or pharmaceuticals.

2.03.12. Alley. A travel way providing a means of access to abutting property but not intended for general traffic circulation.

2.03.13. All-weather Surface. Asphalt, concrete, macadam or such compacted material as approved by the Administrative Official, of sufficient thickness to sustain traffic planned for the area.

2.03.14. Alteration. Any change or rearrangement in the supporting members of an existing structure, such as bearing walls, columns, beams, girders or interior partitions; any enlargement to a structure whether horizontally or vertically; the moving of a structure from one location to another; or any changes resulting in a cost of 60% or more of the value of the structure prior to commencement of such changes.

2.03.15. Alternative Financial Service. A check cashing business, payday advance or loan business, money transfer business, car title loan business, title pawn business, pawn shop or any other similar businesses engaged in non-traditional short-term lending.

2.03.16. Amateur Radio Tower. A tower with one or more antennas connected to radio equipment operated by a licensed amateur radio operator in accordance with applicable FCC laws and regulations.

2.03.17. Animal Shelter. A non-profit or public organization providing shelter for small domestic animals.

2.03.18. Antenna. A device used to transmit and/or receive radio or electromagnetic waves between terrestrial structures and/or satellites.

2.03.19. Applicable District. That zoning district in which a building, structure, property, or subdivision, for which a zoning application is submitted or permit is sought, is located.

2.03.20. Applicant. A person submitting an application for development, a variance, a special exception use or rezoning.

2.03.21. Assisted Living Facility. A building, portion of a building, or a group of buildings in which room, board, meals, laundry, and assistance with personal care and other services are provided for not less than 24 hours in any week to at least two ambulatory adults not related by blood or marriage to the owner and/or administrator and licensed by the State of Alabama.

2.03.22. Bakery, Major. An establishment which bakes goods primarily for wholesale and/or retail and in which may include storage and distribution facilities.

2.03.23. Bakery, Minor. An establishment, which bakes goods for on-premises retail sale only.

2.03.24. Bank or Financial Institution. A business engaged in providing banking or financial services to the general public, such as a bank, savings and loan institution, credit union, finance company and similar uses.

2.03.25. Bed and Breakfast. A detached single-family dwelling, or portion thereof, where short-term lodging rooms and meals are provided.

2.03.26. Bedroom. A room marketed, designed or otherwise intended to function primarily for sleeping.

2.03.27. Basement. That portion of a building having its floor subgrade (below ground level) on all sides.

2.03.28. Berm. A grass covered or landscaped mound of earth used to screen activities or uses.

2.03.29. Block. A tract or parcel of land entirely surrounded by public streets other than alleys or by a combination of streets, public land, public parks, cemeteries, railroad rights-of-way, bodies of water or watercourses, or any other barrier to the continuity of development.

2.03.30. Board of Adjustment. The Board of Adjustment of Daleville, Alabama.

2.03.31. Boarding House. A dwelling or part thereof in which, for compensation, lodging and meals are provided and personal and financial services may be offered.

2.03.32. Broadcast Studio. An establishment primarily engaged in broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms.

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2.03.33. Buffer. A strip of land that is landscaped to separate incompatible land uses, promoting visual harmony, reducing noise, diverting emissions, and reducing glare. Buffers may consist of existing or planted trees, shrubs or vegetation, fences, walls or earth berm.

2.03.34. Building. A structure designed to be used as a place of occupancy, storage or shelter.

2.03.35. Building, Principal. The building in which is conducted the principal use of the concerned lot.

2.03.36. Building Height. For flat or parapet roof buildings, the vertical distance measured from grade level at the front of the building to the highest point of the roof. For pitched-roof buildings, the vertical distance measured from grade level at the front of the building to the average of the eaves and ridges.

2.03.37. Building Line, Front. A line extending across the width of a lot coincident with the front-most plane of the building.

2.03.38. Building Spacing. The minimum distance between buildings, measured from the outermost projection, excluding bay windows, chimneys, flues, ornamental features, cornices and eaves.

2.03.39. Business Support Service. A business which supplies support services primarily to business establishments, such as sales of office equipment, supplies and services; cleaning services; computer and office equipment repair and similar services.

2.03.40. Campground. A plot of ground on which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education or vacation purposes. Does not include the term “Recreational Vehicle Park”.

2.03.41. Car Wash. A commercial establishment engaged in automated or manual washing of automobiles and light vehicles.

2.03.42. Casualty. An event, which is sudden, unexpected, and unusual, such as a hurricane, earthquake, fire, war, terrorism, flood, accident, vandalism, theft, or similar event that causes loss or damage to property or improvements.

2.03.43. Cemetery. Burial grounds.

2.03.44. Certificate of Occupancy. Authorization by the City to use or occupy a property upon completion of construction, change or conversion of a structure, which certifies that zoning, building code and other applicable requirements have been met.

2.03.45. Church. See “Place of Assembly.”

2.03.46. City. The City of Daleville, Alabama.

2.03.47. City Engineer. That engineer, whether on staff or contract, so designated by the City Council, or his/her designee.

2.03.48. Club. A group of people organized for a common purpose to pursue common goals, interests and activities and usually characterized by certain membership qualifications, payment of fees or dues, which holds regular meetings and has a constitution or by-laws.

2.03.49. Clubhouse. A building located within a residential development, in which may be provided exercise, recreation, dining and other services solely to the members of a homeowners’ or similar association and their guests. Clubhouses may also include meeting rooms, management offices and maintenance facilities.

2.03.50. Commercial Parking. Parking of motor vehicles on a temporary basis within a commercially-operated, off-street parking lot or garage.

2.03.51. Commercial School. A private, gainful business providing instruction in arts, business, crafts, trades or professions.

2.03.52. Comprehensive Plan. The duly adopted Comprehensive Plan of the City of Daleville, Alabama including any similarly adopted sector or area-specific plans.

2.03.53. Construction Service. A place of business engaged in construction activities and incidental storage as well as wholesaling of building materials (but not a home improvement center which also sells at retail) such as a building contractor, trade contractor or wholesale building supply store.

2.03.54. Council or City Council. The City Council of the City of Daleville.

2.03.55. Country Club. Land or buildings containing recreational facilities and clubhouse for private club members and their guests.

2.03.56. Day Care Center. A licensed facility, that is not a dwelling, providing day care on a regular basis to more than six children, elderly, handicapped or infirmed persons who do not stay overnight at the facility. The term does not include: programs operated as part of public or private schools; programs operated on federal governmental premises; and special activities programs such as athletics, crafts, and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations.

2.03.57. Day Care Home. A single-family dwelling in which a permanent adult occupant thereof provides care for up to six children for part of the day and which is duly licensed to operate as a day care home. Those receiving care are not all related to the occupant or to each other and are not the legal wards or foster children of the attendant adults, and do not reside on the site. Day Care Homes are regulated separately from Home Occupations.

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2.03.58. Day Care Home, Group. A single-family dwelling in which a permanent adult occupant thereof provides care for at least seven, but no more than 12, children for care during part of the day, which is duly licensed as a Group Day Care Home and where at least two adults are present and supervising the activities conducted therein. Group Day Care Homes do not include Group Care Homes and are regulated by this Ordinance separately from Home Occupations.

2.03.59. Density. The minimum required lot area per dwelling unit or the maximum number of dwelling units per acre of site area.

2.03.60. Development. The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, alteration, relocation or enlargement of a structure; any mining, dredging, fitting, grading, paving, excavation, drilling or disturbance of land; and, any use or extension of the use of the land.

2.03.61. Dwelling. Any building or portion thereof, which is designed and used for residential occupancy.

2.03.62. Dwelling, Accessory. See “Accessory Dwelling.”

2.03.63. Dwelling, Caretaker. A residence, incidental to a principal use, for an on-site manager, watchman or caretaker employed on the premises.

2.03.64. Dwelling, Duplex. A building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from basement to roof.

2.03.65. Dwelling, Garden Home. A detached, single family dwelling on a small lot with one zero lot line on one side.

2.03.66. Dwelling, Multifamily. A building containing five or more dwelling units on a commonly shared lot.

2.03.67. Dwelling, Multiplex. A building containing three to four dwelling units, each of which has direct access to the outside or to a common hall.

2.03.68. Dwelling, Single-Family (Detached). A building containing one dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards.

2.03.69. Dwelling, Townhouse. A single-family dwelling in an attached row of at least two such units in which each unit has its own front and rear access to the outside, no unit is located over another, and each unit is separated by one or more vertical common fire-resistant walls.

2.03.70. Dwelling Unit. One or more rooms occupied as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

2.03.71. Dwelling, Upper-Story. A dwelling unit located on a floor above a nonresidential use.

2.03.72. Easement. Authorization by a property owner of the use of a designated part of his property by another for a specified purpose.

2.03.73. Engineer or Registered Engineer. A professional engineer registered and in good standing with the State of Alabama Board of Registration for Professional Engineers and Surveyors.

2.03.74. Entertainment, Indoor. A commercial establishment providing spectator entertainment within an enclosed building, including movie theaters, playhouses, concert halls, etc.

2.03.75. Entertainment, Outdoor. An establishment providing spectator entertainment in open or partially enclosed or screened facilities, including sports arenas, racing tracks, drive-in theaters, amusement parks, etc.

2.03.76. Equipment Rental, Heavy. An establishment engaged in the rental of tools and heavy equipment such as paving machines, motor graders, scissor lifts, backhoes, construction cranes and equipment, tractors and farming implements, and similar items.

2.03.77. Equipment Rental, Light. An establishment engaged in the rental of light equipment such as lawn mowers, weed eaters, garden tillers, small concrete mixers, chain saws, ladders, and similar items, usually on a daily/hourly basis for remuneration. Light Equipment Rental may also include rental of other items such as appliances, furnishings, meeting/wedding/party supplies, audio/video equipment and similar items.

2.03.78. Exterior Insulation and Finishing System (EIFS). A non-load bearing, exterior insulation and finish system attached adhesively or mechanically to the substrate, with an appearance similar to stucco. It is also referred to as “dryvit.”

2.03.79. Family. Any one of the following arrangements when living together in a dwelling as a single-housekeeping unit:

a) an individual

b) two or more persons related by legal adoption, blood, or a licit marriage plus up to two

unrelated individuals

c) a group of not more than four unrelated persons.

2.03.80. Farm. Land used primarily for agricultural purposes.

2.03.81. Farm Support Business. A commercial establishment engaged in the sale of farm support goods and services, including but not limited to the following: the sale of feed, grains, fertilizers, pesticides and similar farm support goods; the provision of warehousing and storage facilities for raw farm products; and the provision of veterinary services to farm animals

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2.03.82. Fence. An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

2.03.83. Floor Area, Gross. The total area of a building measured using the outside dimensions of the building at each floor level intended for occupancy or storage.

2.03.84. Fowl. Chickens, turkeys, ducks, geese, quail, guineas, etc.

2.03.85. Front Façade. Any elevation of a principal building facing a public street.

2.03.86. Front-Loaded. Having vehicular access from the front of the property, requiring a driveway along a front lot line.

2.03.87. Funeral Home. A building or part thereof used for human funeral services. Such building may contain space and facilities for; a) embalming and the performance of other services used in preparation of the dead for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns and other related funeral supplies; and d) space for the storage of funeral vehicles.

2.03.88. Garden Center or Nursery. The growing, cultivation storage and sale of garden plants, trees, flowers, shrubs, and fertilizers, as well as the sale of garden tools and similar accessory and ancillary products, to the general public.

2.03.89. Gas Station. An establishment involving the retail dispensing of automotive fuels. A gas station which includes minor vehicle repair activities is considered a “service station.”

2.03.90. Grade Level. For buildings, the average level of the finished grade at the front building line. For trees, landscaping, and light fixtures, the level of finished grade at the base of the tree, plant or fixture.

2.03.91. Group Care Home. A dwelling for the sheltered care of persons, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation.

a) Emergency Care Home. A group care home, serving up to 10 individuals, unrelated by blood

or marriage, living together as a single housekeeping unit under the supervision of one or two resident managers, whose purpose is to provide a protective sanctuary and emergency housing to victims of crime or abuse.

b) Family Care Home. A group care home, serving up to 10 individuals, unrelated by blood or

marriage, living together as a single housekeeping unit under the supervision of one or two resident managers, whose purpose is to serve socially, physically, mentally, or developmentally impaired persons in a family-type living arrangement, and which meet or exceed the minimum requirements of Section 11-52-75.1 Regulations as to housing of

mentally retarded or mentally ill persons in multi-family zones, Code of Alabama, 1975 as amended.

2.03.92. Fitness Center. Establishments such as fitness centers, gymnasiums, health and athletic clubs including indoor sauna, spa or hot tub facilities and incidental court game uses including, but not limited to, indoor tennis, handball and racquetball. Such establishments may include swimming pools.

2.03.93. Home Improvement Center. An establishment providing building, yard and garden materials, appliances, tools and supplies at retail or wholesale.

2.03.94. Home Occupation. A business, profession, occupation or trade conducted for gain or support as an incidental activity within a dwelling.

2.03.95. Hospital. An establishment providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including as an integral part of the institution related facilities such as laboratories, outpatient facilities, training facilities, medical offices and staff residences.

2.03.96. Hotel. An establishment providing sleeping accommodations for transients, in which lodging rooms are accessed from the interior of the building. Hotels may also include, as an incidental use, a liquor lounge.

2.03.97. Improvement. Any permanent item that becomes a part of, is placed upon or is affixed to real estate.

2.03.98. Independent Living Facility. A multi-family residential facility for the elderly. These facilities may provide meals and other services such as housekeeping, linen service, transportation, and social and recreational activities. Such facilities do not provide, in a majority of the units, assistance with activities of daily living such as supervision of medication, bathing, dressing, toileting, etc.

2.03.99. Industry, Heavy. Meat or poultry processing, slaughterhouse, storage or manufacture of flammable, explosive or toxic materials or other materials generally considered to be hazardous or offensive in nature.

2.03.100. Industry, Light. Industrial processes and facilities that are typically less capital intensive and pose more limited environmental impacts than Heavy Industry. Most light industry products are produced for end users rather than for use by other industries.

2.03.101. Institutional use. A structure or land occupied by a group, cooperative, or other entity created for non-profit purposes or for public use or services; excluding those of an industrial nature such as garages, repair or storage yards, and warehouses. For the purposes of this Ordinance, institutional uses are categorized by intensity as follows:

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Intensity Classification of Institutional Uses

Low Intensity Medium Intensity High Intensity

 places of assembly up to 250

 government buildings up

 government buildings

seats day care centers; group care

to 12,500 sf health institutions up to

greater than 12,500 sf health institutions greater

homes nursing care facilities and other

35,000 sf elementary and junior

than 35,000 sf places of assembly greater

homes for the aged up to 10,000 sf

high/middle schools; places of assembly up to

than 500 seats high schools, universities,

500 seats stadiums and arenas up to

colleges, junior colleges other institutions greater

3,000 seats other institutions up to

than 35,000 sf

35,000 sf

2.03.102. Junkyard. See “Wrecking or Junk Yard”.

2.03.103. Kennel. An establishment in which domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for compensation.

2.03.104. Laundering Plants. Establishments primarily engaged in high volume laundry and garment services, including commercial and industrial laundries; garment pressing and dry cleaning; linen supply; diaper service; industrial laundries; carpet and upholstery cleaners, but excluding laundromats and dry cleaning pick-up stations without dry cleaning equipment.

2.03.105. Laundry Services. Laundromat, laundry and dry cleaning pick-up stations, dryer, and clothing storage, but excluding laundering, dry cleaning, and dyeing plants. See also Personal Service.

2.03.106. Liquor Lounge. A licensed establishment engaged in the preparation, sale or serving of liquor for consumption on the premises only. This includes but is not limited to the following terms: taverns, bars, cocktail lounges, nightclubs and similar uses where liquor consumption is a primary or incidental activity on the premises of the establishment.

2.03.107. Livestock. Cows, horses, goats, sheep, swine, ponies, etc.

2.03.108. Livestock Sales. The sale of animal livestock within an enclosed yard or structure, including livestock markets, horse or cattle auctions and similar activities.

2.03.109. Live-Work. A type of mixed-use development, in which one single-family dwelling unit is located in the same building as a nonresidential use. Typically, the dwelling unit is located in an upper floor with the nonresidential use at ground level and the nonresidential use is owned or managed by the resident.

2.03.110. Lot. A parcel of land in one ownership, used or set aside and available for use as the site of one or more buildings and accessory structures or for any other purpose.

2.03.111. Lot, Corner. A lot abutting two or more streets at their intersections or on two parts of the same street forming an interior angle of less than 135 degrees.

2.03.112. Lot, Flag. A parcel that does not meet the minimum lot width requirement at the minimum front yard setback but has direct access to a public street through a narrow strip of land (the flag) that is part of the same lot.

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

2.03.114. Lot, Reverse Frontage. A through lot fronting on both a major street and a parallel, lesser street. Reverse frontage lots may be required to have access from the lesser street.

2.03.115. Lot, Through. A lot that fronts on two streets that do not intersect at the boundaries of the lot.

2.03.116. Lot Area. The total area within the lot lines of a lot, excluding any rights-of-way.

2.03.117. Lot Frontage. The lot width measured at the front lot line.

2.03.118. Lot Line. A line bounding a lot, which divides it from another lot or from a street or from any other public or private place.

Interior Lot Corner Lot

2.03.119. Lot Line, Front. The lot line separating a lot from a street right-of-way. For corner lots, both such lot lines shall be considered front lot lines.

2.03.120. Lot Line, Rear. That lot line which is parallel to and most distant from the front line. In the case of a triangular or irregularly shaped lot, a line 10 feet in length, entirely within the lot, parallel to and at the maximum distance from the front lot line.

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2.03.121. Lot Line, Side. Any lot line other than a front lot line or a rear lot line.

2.03.122. Lot Width. The minimum distance measured between the side lot lines at the front building line. For corner lots, lot width is the distance measured between the side lot line and the opposite lot line.

2.03.123. Lumber Mill. A facility where wood products, such as planks, boards, posts, trusses, doors, window casings, baseboards, mantels, and crown molding, are processed from timber.

2.03.124. Lumberyard. An area and structures used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products.

2.03.125. Maintenance Service. An establishment providing building and yard maintenance services, such as janitorial, plumbing, exterminating, landscaping, window cleaning, office cleaning and similar services and uses.

2.03.126. Manufactured Home. A structure that is transportable in one or more sections and that is designed and constructed to the Federal Manufactured Home Construction and Safety (HUD) Code and is so labeled. The structure must be designed for occupancy as a principal residence by a single family. A recreational vehicle or travel trailer shall not be considered a manufactured home.

2.03.127. Manufactured Home Park. Land used or designed to accommodate a manufactured home community of multiple spaces for rent or lease.

2.03.128. Manufacture Home Sales. A lot or tract of land used for display of manufactured homes for sale.

2.03.129. Manufactured Home Space. A space designed for the siting of a manufactured home within a manufactured home park.

2.03.130. Manufactured Home Subdivision. A subdivision designed and intended for the siting of Manufactured Homes.

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Article 2 Definitions

2.03.131. Manufacturing, General. The basic processing and manufacturing of materials or products predominantly from extracted or raw materials and the incidental storage, sale and distribution of such products.

2.03.132. Manufacturing, Light. The manufacture, predominantly from previously prepared materials of finished products or parts, including processing, fabrication, assembly, treatment and packing of such products and the incidental storage, sale and distribution of such products.

2.03.133. Masonry. Brick, cement, stone, stucco, plaster, split-face concrete block, concrete tilt wall and/or a combination of these. Stucco and plaster are only considered a masonry material when applied using a three-step process over diamond metal lath mesh to a 7/8th inch thickness or by other processes producing comparable cement stucco finish with equal or greater strength and durability specifications. Synthetic products (e.g., EIFS –exterior insulation and finish systems, hardi plank, or other materials of similar characteristics) are not considered a masonry material.

2.03.134. Medical or Dental Laboratory. An establishment where medical or dental supplies are manufactured. Limited manufacturing that is accessory and incidental to a Medical Support Service, Professional Office, Medical Clinic or similar non-manufacturing principal use is not considered a Medical or Dental Laboratory.

2.03.135. Medical Clinic. A facility providing medical, psychiatric or surgical services for sick or injured persons exclusively on an out-patient basis.

2.03.136. Medical Support Service. A place of business, which supplies medical support services to individuals, medical practitioners, clinics and hospitals, including but not limited to a pharmacy, medical and surgical supply store, and an optician.

2.03.137. Mini-Warehouse. A structure group of structures partitioned for leasing of individual storage spaces and is exclusively used for the storage of non-volatile, non-toxic and non-explosive materials.

2.03.138. Mixed Use or Mixed Use Development. The combination of a residential use with commercial and/or lodging uses on the same site or within the same building.

2.03.139. Mobile Home. See “Manufacture Home.”

2.03.140. Motel. An establishment providing sleeping accommodations for transients, in which lodging rooms are accessed from the exterior of the building. Motels may also include, as an incidental use, a liquor lounge.

2.03.141. Nonconforming Lot of Record. Any vacant lot legally established prior to the effective date of this Ordinance or subsequent amendment thereto, which does not fully comply with the dimensional regulations of the applicable district.

2.03.142. Nonconforming Structure. Any building or structure, other than a sign, legally established prior to the effective date of this Ordinance or subsequent amendment thereto, but which does not fully comply with the yard, height or other dimensional regulations of the applicable district.

2.03.143. Nonconforming Use. An activity using land, buildings, and/or structures for purposes, which were legal prior to the effective date of this Ordinance or subsequent amendment thereto, but which does not fully comply with the use regulations of the applicable district.

2.03.144. Nonresidential . Land uses including institutional, commercial, lodging and industrial activities. Mixed-use developments shall also be considered nonresidential uses.

2.03.145. Nursing Care Facility. A licensed institution providing skilled nursing care and medical supervision at a lower level than that provided in a hospital but at a higher level than provided in an assisted or independent living facility.

2.03.146. Office, Business or Professional. A place where the administrative or clerical affairs of a business or industry are conducted, such as accounting, bookkeeping, secretarial services, research, editing, administration or analysis, technical or academic consulting; and sales by phone or data transmission; or the office of a member of a recognized professional maintained for the conduct of that profession.

2.03.147. Open Space, Common. Land area within a development that is held in common ownership and maintained by a property owner's association for recreation, protection of natural land features, amenities or buffers; is freely accessible to all owners of the development; and, is protected by the provisions of this ordinance to ensure that it remains in such uses.

2.03.148. Owner. The person having the right and legal title to, beneficial interest in or a contractual right to purchase a lot or parcel of land, or their authorized designee.

2.03.149. Park. Publicly-owned and operated parks, playgrounds, recreation facilities and open spaces. Parks owned and operated by a property owners association are referred to as “Common Open Space.”

2.03.150. Parking, Commercial or Public. A parking area available to the public, with or without compensation, and that is not associated with another use on the same premises.

2.03.151. Perimeter. The boundaries or borders of a lot, tract or parcel of land.

2.03.152. Personal Service. An establishment primarily engaged in providing services involving the care of a person or their personal goods or apparel including but not limited to: barber shop, beauty shop, nail salon, cosmetic studio, dry cleaning and laundry service, laundromat, indoor gym, fitness center, tanning salon, tailor or seamstress service, shoe repair, travel agency, interior decorator, and formal wear rental.

2.03.153. Place of Assembly. A facility used for the gathering together of people for civic, religious, social, educational or cultural activities. Does not include “Club”.

2.03.154. Planning Commission or Commission. The Planning Commission of the City of Daleville, Alabama.

2.03.155. Premises. A lot, parcel, tract or plot or land together with the structures hereon.

2.03.156. Printing Establishment, Major. Blue printing, copying, printing, engraving or other reproduction services with no limit on floor space/area.

2.03.157. Printing Establishment, Minor. Blue printing, copying, printing, engraving or other reproduction services with 2,500 sf or less of floor space.

2.03.158. Property Line. The lot line or boundary line.

2.03.159. Public Facility. Buildings providing public services, not otherwise defined in this Section, including government offices, post offices, museums, libraries, police and fire stations, emergency service stations, civil defense operations and similar uses.

2.03.160. Public Utility Facility. A facility that provides public utility services to the public at large, including water and sewer, gas distribution, electric transmission and distribution, and cable transmission and distribution facilities.

2.03.161. Rear-loaded. Having vehicular access by way of an alley or similar means so as not to require a driveway along a front lot line.

2.03.162. Recording Studio. A facility in which a performance may be created and recorded onto a medium for later reproduction.

2.03.163. Recreation, Indoor. A commercial establishment providing enclosed recreational or sports activities to participants. Such activities include, but are not limited to, bowling alleys, roller skating or ice skating rinks, billiard parlors, racquet ball, indoor batting cages, and related amusements and sports activities.

2.03.164. Recreation, Outdoor. A commercial establishment providing unenclosed recreational or sports activities to participants, including golf driving ranges, miniature golf courses, conventional golf courses, batting cages, tennis courts, racquet ball and other commercial recreational, and sports activities, and similar uses.

2.03.165. Recreational Vehicle. A vehicular type portable structure without permanent foundation that can be towed, hauled, or driven and is designed primarily as a temporary living accommodation for recreational and camping purposes. Recreational Vehicles include, but are not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

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2.03.166. Recreational Vehicle Park. A lot or parcel of land upon which two or more sites are located, established, or maintained for occupancy by recreational vehicles for a fee as temporary living quarters for recreation or vacation purposes.

2.03.167. Recycling Center. Land, with or without buildings, upon which used materials are separated and processed for shipment for eventual reuse in new products.

2.03.168. Recycling Plant. A facility, other than a junkyard, in which recoverable resources, such as newspapers, magazines, books and other paper products; glass, metal cans and other products are recycled, reprocessed and treated to return such products to a condition in which they may be used again in new products.

2.03.169. Repair Service, Minor. An establishment offering repair of goods and equipment servicing for small household appliances, bicycles, clocks, televisions, personal computers, office equipment and similar items. Includes locksmiths and upholstery shops.

2.03.170. Research Laboratory. A building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

2.03.171. Residential Accessory Use. A use of land or of a building or portion thereof commonly associated with and integrally related to the dwelling on the same lot, including but not limited to swimming pools, gardens, storage sheds and detached garages.

2.03.172. Resource Extraction. The removal of soil, sand, stone, chert, clay, gravel, limestone, or other minerals or similar materials, for commercial purposes, including quarries, sand and gravel operations, gas extraction, and mining operations, and the loading, sizing, crushing, and processing of such materials, and the incidental storage, sale and distribution of such materials.

2.03.173. Restaurant, Fast Food. An establishment where food and drink are rapidly prepared for drive-through or drive-in service.

2.03.174. Restaurant, Standard. An establishment where food and drink are prepared, served and primarily consumed within the building where patrons are seated and served.

2.03.175. Restaurant, Take-Out Only. An establishment where food and drink are prepared and served for consumption off-premises only.

2.03.176. Retail, General

a) General Retail, Enclosed. Retail sales of goods and services including, but not limited to;

food sales, department stores, clothing stores, home furnishings, appliance stores, automobile parts and supply stores, video rental, gift shops, florist shops, hardware stores,

specialty shops, jewelry stores, variety stores, sporting goods stores, antique shops, auction houses and similar retail activities.

b) General Retail, Unenclosed. Retail sales of goods and services conducted partially or fully

outside of a building, including but not limited to sidewalk sales, flea markets, outdoor food service and similar activities.

2.03.177. Riding Academy. An establishment where horses are boarded and cared for and where instruction in riding, jumping, and showing is offered and where horses may be hired for riding.

2.03.178. Salvage Yard. See Wrecking or Junk Yard.

2.03.179. Sanitary Landfill. A State-approved site for solid waste disposal employing an engineering method of disposing of solid wastes in a manner that minimizes environmental

hazards by spreading, compacting to the smallest volume and applying cover material over all exposed waste at the end of each operating day.

2.03.180. Satellite Dish Antenna. A parabolic or dish-shaped antenna designed to receive television broadcasts relayed by signals from communications satellites.

2.03.181. School. A public or non-profit school other than a “Commercial School”.

2.03.182. Screen. To visually shield or obscure a building, structure or use from adjacent property or public view by means of opaque fencing, walls, berm or densely planted vegetation.

2.03.183. Shopping Center. A group of commercial establishments located on a lot planned and developed in a unified manner and design with shared parking and driveway facilities and under a common ownership or management authority.

2.03.184. Sight Triangle. A triangular area established at intersections of two streets or a street with a driveway, alley or railroad right-of-way in which nothing may be erected, placed, planted, or allowed to grow in such a manner as to obstruct the sight distance of motorists entering or leaving the intersection.

2.03.185. Site. Land intended to have one or more buildings or intended to be subdivided into one or more lots.

2.03.186. Special Exception. A use or characteristic of development that would not generally be appropriate in a zoning district without restriction(s), but which, if controlled as to number, area or dimension, location, screening, buffering or relation to neighboring uses, would not be detrimental to the public health, safety and general welfare. Special exceptions require approval of the Board of Adjustment in accordance with §9.05 Special Exceptions.

2.03.187. Stable. A building in which horses are kept for private or commercial use.

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2.03.188. Storage, Outdoor. The keeping, in an unenclosed area, of any goods, materials, merchandise, products or vehicles in the same place for more than 48 hours.

2.03.189. Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the ceiling next above and including basements used for the principal use.

2.03.190. Street. A vehicular way dedicated for public use including all land within the right-of-way. Streets are further classified as:

a) Arterial. A major street serving as a primary artery, intended to mainly carry through traffic

and to connect major activity centers in the City.

b) Collector. A street that collects traffic from an area and moves it to the arterial network

while providing some access to abutting property. A collector generally has lower design speeds than an arterial but higher than a local street.

c) Local Street or Minor Street. A minor street used primarily for access to abutting properties.

2.03.191. Structure. A combination of materials that form a construction for use, occupancy, or ornamentation whether installed on, above or below the surface of land or water. All buildings are structures but not all structures are buildings.

2.03.192. Studio. A place of work for an artist, photographer or craftsman, including instruction, display, production and retail sales of materials produced on the premises.

2.03.193. Subdivision. The division of a lot, tract or parcel or land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale or of building development. Such term includes re-subdivision of land and when appropriate to the context relates to the process of subdivision or to the land or territory subdivided.

2.03.194. Telecommunications Tower. Refer to Sec. 44-22 Definitions of the Daleville Code of Ordinances.

2.03.195. Townhouse. See “Dwelling, Townhouse”.

2.03.196. Townhouse Complex. An attached group of not less than two or more than eight townhouses.

2.03.197. Transitional Home. A licensed home for the homeless or inmates on release from more restrictive custodial confinement or initially placed in lieu of more restrictive custodial confinement, wherein supervision, rehabilitation and counseling are provided to enable residents to reintegrate into mainstream society.

2.03.198. Tree, Canopy. A deciduous tree that reaches a mature height of at least 20 ft.

2.03.199. Tree, Understory. A deciduous tree that reaches a mature height of at least 15 ft.

2.03.200. Truck Stop. An establishment involving the maintenance, servicing, storage or repair of commercial vehicles; the retail dispensing of motor vehicle fuels; and the sale of accessories or equipment for trucks and similar commercial vehicles. Truck stops may include overnight accommodations or dining.

2.03.201. Truck Terminal. An area and building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

2.03.202. Use. The purpose for which land or buildings are designed, arranged or intended, or for which it is or may be occupied or maintained.

2.03.203. Variance. A relaxation or waiver of the terms of this Ordinance, other than use provisions, as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship.

2.03.204. Vehicle and Equipment Sales, Rental and Service. An establishment engaged in the sale or rental of heavy trucks (over one ton), construction equipment, tractors farm

implements and similar equipment, including the storage, maintenance and servicing of such vehicles and equipment.

2.03.205. Vehicle Repair, Major. An establishment engaged in the repair and maintenance of vehicles including painting, body work, rebuilding of engines or transmissions, upholstery work, fabrication of parts and similar activities all of which shall be performed entirely within an enclosed building.

2.03.206. Vehicle Repair, Minor. An establishment engaged in sales, installation, and servicing of mechanical equipment and parts, including audio equipment and electrical work, lubrication, tune-ups, wheel alignment, tire balancing, brake and muffler work, battery charging and/or replacement and similar activities.

2.03.207. Vehicle Sales or Rental. An establishment engaged in the sale or rental of automobiles, light trucks, recreational vehicles, boats, motorcycles, including the incidental parking, storage, maintenance, servicing and repair of such vehicles.

2.03.208. Veterinary Hospital. A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

2.03.209. Warehousing. Establishments in which goods, merchandise or equipment are stored for eventual distribution or for short or long term storage.

2.03.210. Wholesaling Establishment. An establishment primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

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2.03.211. Wrecking or Junk Yard. A lot or structure or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.

2.03.212. Yard. A minimum open area unobstructed from the ground up extending along a lot line and inward to the structure. The yard shall be measured as the shortest distance between the structure and the lot line.

a) Front Yard. A yard extending the full width of the lot between any building and the front lot

line and measured perpendicular to the building at the closest point to the front lot line.

b) Rear Yard. A yard extending the full width of the lot between the principal building and the

rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

c) Side Yard. A yard extending from the front yard to the rear yard between the principal

building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

Interior Lot Corner Lot

§2.04. Abbreviations used in this Ordinance

2.04.01. ac – Acre(s)

2.04.02. bldg. – Building

2.04.03. BR – Bedroom

2.04.04. DU – Dwelling Unit

2.04.05. EQ – equal

2.04.06. EIFS – Exterior insulation and finishing system

2.04.07. FCC – Federal Communications Commission

2.04.08. ft – foot or feet

2.04.09. GFA – Gross Floor Area

2.04.10. max. – maximum

2.04.11. min. – minimum

2.04.12. na – not applicable

2.04.13. oc – on center

2.04.14. PL – Property line or Lot Line

2.04.15. ROW – Right-of-way

2.04.16. sf – square feet

2.04.17. % - percent

2.04.18. § - Section, Subsection, Paragraph or Item within this Ordinance or other regulations, as specified

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ARTICLE 3. GENERAL AND SUPPLEMENTAL REGULATIONS

§3.01. General Regulations

Except as otherwise provided for in this Ordinance:

3.01.01. In each district, no use other than the types specified as "permitted" or "permitted on appeal" shall be allowed. Uses specified as "permitted" shall be permitted upon application to the Administrative Official. Uses specified as "permitted on appeal" are special exceptions, and permits shall only be issued for such uses upon written approval of

the Board of Adjustment and subject to such conditions as said Board may require to preserve and protect the character of the district.

3.01.02. No building shall be erected, enlarged, reconstructed, moved or structurally altered except in conformity with the area and height limits of the applicable district.

3.01.03. The minimum lot area, yard setbacks, open spaces and parking spaces required by this Ordinance for each and every building, shall not be encroached upon or counted toward the requirements for any other building unless specifically provided for otherwise in this Ordinance.

3.01.04. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one principal building on one lot except as otherwise permitted for nonresidential uses and multifamily residential developments.

3.01.05. No private permanent building, fence, wall, sign or other structure shall be placed or constructed within a public right-of-way.

3.01.06. On any lot which may be reduced in area by widening a public street to a future street line as indicated on the duly adopted major street plan, as amended, the minimum required yards, lot area, lot width and the maximum building area shall be measured by considering the future street lines as the front lot lines of such lot.

3.01.07. No lot shall be reduced in area so that yards and other open spaces total less than the minimum area required under this Ordinance.

3.01.08. Any building or structure to be moved to any location within the city limits shall be considered, for the purpose of this Ordinance, to be a new building and shall conform to all applicable provisions of this Ordinance.

3.01.09. No building shall hereafter be erected and no use shall hereafter be established on a lot, for any commercial or industrial purpose, that does not have frontage on a public or approved private street. Where a lot fronts on a street that does not meet the minimum width requirement of the Subdivision Regulations, the minimum front yard setback for such lots

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shall be the sum of the minimum front yard setback of the applicable district and 25 ft, which sum shall be measured from the street centerline.

3.01.10. Recreational vehicles are not permitted as permanent dwellings in any zoning district.

§3.02. General Yard Requirements

3.02.01. Every part of a required yard shall be open to the sky, unobstructed by any structure or part thereof, and, unoccupied for storage, servicing or similar uses, except as provided for herein. Projections into required yards are permitted as follows:

a) Architectural features such as, but not limited to, chimneys, roof overhangs, sills, or eaves

may project no more than two and one-half feet into a required yard, but shall not be closer than three feet to any property line.

b) Terraces, steps, uncovered porches and similar features that extend no more than three

feet above the ground may project into a required yard but shall be no closer than five feet to any property line.

c) Within residential districts, satellite dish antennas may be located only within a rear yard

and shall be no closer to any property line than 10 feet, measured from the closest edge of the structure.

d) Driveways and walkways shall be set back no less than two and one-half feet from any

residential side or rear lot line.

e) Signs are permitted in the required front yard in accordance with Chapter 4, Article II of the

Code of Ordinances.

3.02.02. No building shall be required to set back more than the average of the setbacks of existing buildings within 100 feet on each side thereof.

3.02.03. Through lots shall provide the required front yard on both sides.

3.02.04. Corner lots shall provide a front yard on each street.

3.02.05. Where a lot abuts a dedicated alley, one-half of the alley width may be considered as part of the required rear yard.

§3.03. Accessory Structures

It is the intent of this Ordinance that accessory structures be permitted for uses that are reasonable and customary to the district and permitted use.

3.03.01. No accessory structure shall be built prior to construction of the principal structure.

3.03.02. Accessory structures shall be permitted in the rear yard only and shall not be located in a required buffer or easement.

3.03.03. Accessory structures shall not include living quarters except as provided in Article 4 and §5.04 Accessory Dwellings.

3.03.04. On any corner lot which abuts a residential lot, any accessory structure within 25 feet of the common lot line shall be set back from the front lot line as required for the dwelling on the abutting lot.

3.03.05. Storm and fallout shelters are permitted as principal or accessory uses and structures in any district, subject to the dimensional regulations of the district. Such structures may contain or be added to other structures, or may be constructed separately,

and in addition to shelter use may be used for any principal or accessory use permitted in the district.

§3.04. Height

Each structure hereafter erected or altered shall not exceed the maximum height permitted in the applicable district. District height regulations do not apply to spires, belfries, cupolas, antennas, utility poles, telecommunications towers, and water tanks; or to any ventilation structures, chimneys, or any other such facilities not intended for human occupancy and that are normally required to be placed on the roof.

§3.05. Dwelling Unit Occupancy

To prevent overcrowding of land and undue density of population in relation to existing or available community facilities, no dwelling unit shall be occupied by more than one family, as defined in this Ordinance. This shall not apply to permitted Group Care Homes, Boarding Houses and Bed and Breakfast establishments.

§3.06. Intersection Visibility

No fence, wall, shrubbery, sign, marquee, or other obstruction to vision between the heights of three feet and 12 ft above street level shall be permitted within 20 ft of the intersection of the right-of-way lines of two streets, or railroads or of a street and a railroad right-of-way line.

§3.07. Fences and Walls

3.07.01. Fences, walls, and hedges located along a front lot line or in a required front yard shall not exceed four feet in height above grade level.

3.07.02. Fences, walls, and hedges along a side or rear lot line or within a required side or rear yard shall not exceed eight feet in height above grade level.

3.07.03. The finished side of a fence shall face abutting property and public rights-of-way.

Zoning Ordinance 3-3

3.07.04. Fences, wall and hedges along lot lines or adjacent thereto shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair. Any fence that poses a threat to the public safety, health or welfare, shall be considered a public nuisance, and the City may commence proceedings for the abatement thereof.

§3.08. Outdoor Storage of Boats, Recreational Vehicles, Construction Equipment

3.08.01. The outdoor storage or parking of any airplanes, boats, recreational vehicles or similar vehicles on a public street shall be prohibited for a period greater than 48 hours in any residential district. The outdoor storage of such vehicles on a residentially zoned lot shall comply with the following conditions:

a) All such vehicles or equipment shall be kept behind the front building line when possible.

b) Storage of such vehicles shall only be permitted on a premises upon which there is an inhabited dwelling.

c) In the case of multifamily or attached dwellings, storage for such vehicles shall be in one or

more consolidated locations and, if not within a building, screened by a fence, wall or vegetation adequate to conceal the vehicles from public view off the premises.

d) No vehicle, while parked in a residential district, shall be occupied as a dwelling, be

connected to sanitary sewer facilities or have a fixed connection to electricity, water or gas.

3.08.02. Construction Equipment. The outdoor storage of construction equipment on a premises in any residential district is prohibited except when said equipment is being used for construction work on the site. The equipment shall be removed immediately upon completion of the work.

§3.09. Ownership and Management of Common Open Spaces and Facilities

For all proposals involving the creation of open spaces or facilities to be owned and maintained by the developer or a homeowner, property owner, or Condominium association, the following shall apply:

3.09.01. If not owned and maintained by the developer, an association representing the owners shall own the common open space or facility in perpetuity. Membership in the association shall be mandatory and automatic for all owners of the subdivision or condominium and their successors. The association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the common open space and/or facilities located thereon shall be borne by the association.

3.09.02. Management Plan. The applicant shall submit a plan for management of open space and/or common facilities that:

a) allocates responsibility and guidelines for the maintenance and operation of the common

open space/facilities including provisions for ongoing maintenance and for long-term capital improvements;

b) estimates the costs and staffing requirements needed for maintenance and operation of,

and insurance for, the common open space/facilities and outlines the means by which such funding will be obtained or provided;

c) provides that any changes to the plan be approved by the Commission; and

d) provides for enforcement of the plan

3.09.03. In the event the party responsible for maintenance of the common open space fails to maintain all or any portion in reasonable order and condition, the City may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the association, or to the individual owners that make up the association, and may include administrative costs and penalties. Such costs shall become a lien on all involved properties.

§3.10. Manufactured homes

Manufactured homes built before 1976 and that do not meet the construction standards promulgated by the U.S. Department of Housing and Urban Development are not permitted for use as dwellings or for nonresidential purposes in the City, except as existing structures permitted prior to the adoption of this Ordinance.

Other than on manufactured home sales lots and construction sites, all manufactured homes shall be located in approved manufactured home parks or subdivisions. A manufactured home may be temporarily parked and used as a bona fide office at a construction site with written authorization from the Administrative Official. Such authorization shall expire upon completion of the construction for which the permit is issued.

Zoning Ordinance 3-5

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3-6 City of Daleville

Article 4 District Regulations

ARTICLE 4. DISTRICT REGULATIONS

§4.01. Area and Dimensional Regulations

Structures shall be located on each lot in accordance with the area and dimensional regulations specified for the district in Tables 4-1 through 4-5 unless modified by any applicable Use-Specific Regulations.

§4.02. Use Regulations

Uses shall be permitted within each district as specified in Table 4-6 (located at the end of this Article). Uses identified as permitted on appeal require approval from the Board of Adjustment. Uses not identified as permitted by right or permitted on appeal are prohibited in the applicable district.

§4.03. General Regulations for Nonresidential Districts

4.03.01. The following general regulations shall apply in all nonresidential districts:

a) All principal buildings shall be permanent buildings, which shall not be manufactured

homes (see also §3.10 Manufactured Homes), tents, shelters, portable buildings or other nonpermanent structures.

b) No minimum lot area or lot width shall be required, although each lot shall be adequate in

size to accommodate the proposed use, required setbacks and parking, buffers (if required), and servicing of buildings.

c) Each structure shall have on premises a service area adequate for the handling of waste

and garbage and the loading and unloading of vehicles. Such service area shall be paved, have access to a public street or alley, and be located to the side or the rear of the principal structure.

d) No exterior lighting fixture, including lighting for parking areas, walkways, general

illumination or any other purposes, shall exceed 25 ft in height measured from grade level and shall be designed and installed so as to direct the beam of light away from any adjacent residential areas.

e) For any nonresidential development in which multiple buildings are proposed on the same

premises, a site plan shall be submitted to the Commission for consideration in accordance with §10.05 Site Plan Review. Any and all developments in the B-4 District require site plan approval by the Commission in accordance with §10.05.

f) Those residential uses permitted in the B-3 District shall be subject to the area and

dimensional regulations of the R-65 District (see Table 4-3).

Zoning Ordinance 4-1

Table 4-1 Area and Dimensional Regulations, Nonresidential Districts

Minimum Yard Setbacks

Max. building height Max. building area Front Side Rear

B-3 20 ft n/a 20 ft 35 ft or 2 stories 50%

B-4 20 ft n/a 20 ft 35 ft or 2 stories 40%

M-1 20 ft 0 0 35 ft or 2 stories 50%

M-2 30 ft 30 ft 30 ft 35 ft or 2 stories 25%

INST 20 ft 10 ft 10 ft 45 ft or 3 stories 50%

Table 4-2 Area and Dimensional Regulations, Agricultural Districts

Minimum Yard Setbacks Min. lot area (per

Min. lot

Max. building

Max. building

family)

width

height

area Front Side Rear

AGR-2 50 ft 15 ft 30 ft 15,000 sf 100 ft 35 ft or 2 stories 25%

Table 4-3 Area and Dimensional Regulations, Residential Districts

Minimum Yard Setbacks Min. lot area

Min. lot

Max. bldg.

Max. bldg.

Min. living

(per family)

width

height

area

space Front Side Rear

R-100 35 ft 12 ft 30 ft 14,000 sf 100 ft 35 ft or 2 stories 25% 1,200 sf

R-85 30 ft 10 ft 30 ft 12,000 sf 85 ft 35 ft or 2 stories 25% 1,000 sf

R-75-S 30 ft 10 ft 30 ft 10,000 sf 75 ft 35 ft or 2 stories 40% 850 sf

R-75-M 30 ft 10 ft 30 ft 10,000 sf 75 ft 35 ft or 2 stories 40% 520 sf

R-65 25 ft 10 ft 25 ft 7,200 sf 65 ft 35 ft or 2 stories 60% n/a

R-50 25 ft 5 ft 25 ft 6,000 sf 50 ft 35 ft or 2 stories 60% n/a

TH-16 see also §4.05.05 30 ft 1 5 ft 2 10 ft 1,280 sf 16 ft 35 ft or 2-½ stories 60% 500 sf

TH-20 see also §4.05.05 30 ft 1 5 ft 2 10 ft 1,600 sf 20 ft 35 ft or 2-½ stories 60% 720 sf

T-100 see §4.05.06

T-50 see §4.05.07

1 Where the side of a townhouse faces a street, the minimum front yard setback shall be ten feet.

2 Required only at ends of townhouse complex.

§4.04. Regulations for Agricultural Districts

4.04.01. The raising of livestock or fowl for agricultural purposes shall require a minimum lot area of 94,000 sf.

4.04.02. Structures, pens and corrals for housing animals shall be located no closer than 200 feet to the nearest property line of any residentially-zoned property. This restriction may be waived or reduced on appeal to the Board of Adjustment where the abutting, residentially-zoned property is used for agricultural purposes.

§4.05. Regulations for Residential Districts

4.05.01. Only low intensity institutional uses, as defined in Article 2 and as further limited by Table 4-8, shall be permitted by right in a Residential District. Institutional uses may be established or existing institutions expanded to medium intensity in a Residential District only upon approval of a Special Exception. High intensity institutional uses require rezoning to the INST District.

4.05.02. Agricultural uses, where permitted, exclude chicken brooder houses. The raising of livestock or fowl for agricultural purposes shall require a minimum lot area of 94,000 sf. Structures, pens and corrals for housing animals shall be located no closer than 200 feet to any property line. The latter restriction may be waived or reduced on appeal to the Board of Adjustment where the abutting property is used for agricultural purposes.

4.05.03. Accessory structures shall not exceed the maximum building height of the applicable district and shall not cover more than 30% of any required rear yard, and shall be at least five feet from the rear and side lot lines and ten feet from any other structures on the same lot.

4.05.04. Private swimming pools constructed as an accessory structure to a dwelling shall be located in the rear yard only, shall be constructed not closer than ten feet to the property line, shall be enclosed by a protective wall, fence or similar type barrier of a minimum height of four feet with suitable locks on all gates and exits.

4.05.05. Regulations for the TH-16 and TH-20 Districts

a) Development plans for any proposed townhouse development shall be designed in

conformance with the Subdivision Regulations and shall be approved by the Planning Commission prior to submittal of construction plans for issuance of a building permit.

b) Each townhouse dwelling shall be located on a separate platted lot in accordance with the

requirements in Table 4-3 Area and Dimensional Regulations, Residential Districts.

c) No townhouse complex shall contain less than two or more than eight townhouses and no

townhouse complex shall exceed 250 ft in length including any space between the townhouses making up the townhouse complex.

Zoning Ordinance 4-3

d) No more than four consecutive townhouses shall have the same front building line.

e) Each townhouse shall have on its own lot one yard containing no less than 200 sf, exclusive

of paved parking space, reasonably secluded from view from streets or from neighboring property.

f) Sidewalks at least four feet in width shall be provided as necessary to connect each

townhouse dwelling to off-street parking facilities and any common areas serving the development. No off-street parking space shall be me more than 100 ft, as measured along the most direct pedestrian route, from a door of the townhouse dwelling it is intended to serve.

g) All lots shall abut by their full frontage on a public street or on a common area.

h) Common areas shall be provided in accordance with §3.09 Ownership and Management of

Common Open Spaces and Facilities.

i) Single-family detached dwellings shall conform to the area and dimensional requirements

of the R-65 District. See Table 4-3.

4.05.06. Regulations for the T-100 District

a) The minimum site for development of a manufactured home subdivision shall be ten acres.

b) Development plans for any proposed manufactured home subdivision shall be designed in

conformance with the Subdivision Regulations and shall be approved by the Planning Commission prior to submittal of construction plans for issuance of a building permit.

c) Each manufactured home shall be located on its own separate platted lot in accordance

with the requirements in Table 4-4 Area and Dimensional Regulations.

d) Water and sewerage facilities shall be provided to each lot.

e) All manufactured homes shall be installed according to all requirements of the City Building

Code and shall be completely skirted, within 30 days from the date the home is moved on a lot, with weather-resistant material. Skirting shall be adequately vented.

f) No manufactured homes shall be placed on a lot until at least ten lots within the

subdivision have been completely developed together with facilities as required by all applicable State, County and other regulations.

Table 4-4 Area and Dimensional Regulations, T-100 District

Min. lot

Minimum Yard Setbacks Min. lot

Min. lot area

width

depth

(per family) Front Side Rear

35 ft 10 ft 30 ft 100 ft 150 ft 15,000 sf

4-4 City of Daleville

Article 4 District Regulations

4.05.07. Regulations for the T-50 District

a) The minimum site for development of a manufactured home park shall be three acres.

b) Site plans for any proposed manufactured home park shall be approved by the Planning

Commission prior to submittal of construction plans for issuance of a building permit. Refer to §10.05 Site Plan Review.

c) Each manufactured home shall be located on its own separate space in accordance with the

requirements in Table 4-5 Area and Dimensional Regulations.

d) Water and sewerage facilities shall be provided to each manufactured home space.

e) Location and type of fire hydrants shall be as approved by the Fire Department.

f) Each manufactured home park shall be provided with one or more open spaces for

recreational use having a minimum area of 100 sf per manufactured home space. Such areas shall be consolidated into usable areas with the least dimension of any such open space not less than 40 ft.

g) Paved streets, maintained by the park management, shall be installed for access to all

manufactured home spaces. No manufactured home space shall have direct access to a public street.

h) Each manufactured home space shall have at least one off-street parking space in

accordance with the design standards of Article 6 Parking and Loading. In addition, one-half parking space shall be provided on-site for each manufactured home space to accommodate resident and visitor parking needs.

i) Waste collection facilities shall be provided and shall be the responsibility of park

management.

j) Manufactured home spaces shall not be subdivided from the park property.

k) No manufactured homes shall be placed on site until at least ten manufactured home

spaces within the park have been completely developed together with facilities as required by all applicable State, County and other regulations.

l) Notwithstanding any buffers that may otherwise be required by §7.01 Buffers, a 15 foot

buffer shall be provided along all side and rear lot lines, which shall be landscaped and maintained by park management in accordance with §7.01 Buffers.

m) Screening shall be provided, in accordance with §7.03 Screening, to conceal certain site

elements, including but not limited to, loading and waste collection areas, mechanical equipment, and outdoor storage areas, from public view.

Zoning Ordinance 4-5

Table 4-5 Area and Dimensional Regulations, T-50 District

Minimum Yard Setbacks* Min. space

Min. space

Min. spacing between

width

depth

manufactured homes Front Side Rear 35 ft 15 ft 15 ft 50 ft 80 ft 15 ft

- Setbacks are required along the exterior property lines of the manufactured home park.

§4.06. Commercial Overlay Districts

Recognizing the special nature of certain corridors and the impacts of the appearance of these roadways and their importance to the local economy, this section sets forth regulations intended to ensure that development in these critical areas is visually pleasing and economically viable. The following commercial overlay districts are hereby established:

a) Daleville Avenue Overlay District

b) Donnell Shopping Center Overlay District

c) Highway 84 Overlay District

d) Highway 134 Overlay District

The following regulations apply to all land in the overlay districts as shown on the Official Zoning Map, regardless of the underlying zoning classification, and supersede base zoning district regulations unless the base zoning requirements are more stringent. In those cases, the base district regulations apply.

4.06.02. General Requirements

a) In the Donnell Shopping Center Overlay District, major and minor vehicle repair services are

prohibited.

b) Setbacks. All structures shall be set back at least 20 ft from the right-of-way line. All fuel

islands, garages, car washes or other service bays shall be located at least 40 ft from front lot lines; and all garage, car wash, or service bay openings shall be oriented at not less than 90 degrees to the primary street frontage. No accessory structure, other than fuel islands, may be located closer to the primary street frontage than the principal building.

c) Outdoor Display, Work Yards and Storage. Outdoor displays of merchandise and outdoor

work yards, storage areas and areas used for the repair and/or storage of vehicles that are visibly damaged or under repair shall be located behind the front building line and screened in accordance with §7.03. Such areas not conforming to this provision at the time of adoption of this Ordinance shall be screened or otherwise brought into compliance within two years from such date.

d) Building Materials. All front facades shall incorporate wood, cement board siding, masonry,

stucco or EIFS. Not more than 30% of the area of the front facade and of the first 15 ft of

side elevations nearest the front facade, excluding door and window openings, shall be metal or vinyl siding. Principal buildings on corner lots are considered to have two front facades, one facing each street frontage.

e) Fences and Screening.

1) Utility meters, air conditioners and other mechanical units shall not be located on any front facade and shall be screened as required in §7.03 Screening.

2) Dumpsters and all other refuse collection devices shall be located behind the front building line and shall be screened as required in §7.03 Screening.

3) The following standards shall apply only in the Daleville Avenue and Donnell Shopping Center Overlay Districts:

i) No type of wire fencing shall be used forward of the front building line.

ii) Fences located forward of the front building line shall not exceed four feet in height.

f) Lighting. External lighting of buildings or grounds shall be directed or located in such a

manner that direct or indirect illumination shall not exceed one foot candle when measured along any property line abutting a residential district. Outside lights for nonresidential properties/uses must be made up of a light source and reflector so that, acting together, the resulting light is controlled and not directed across an adjacent property. Freestanding lights shall not exceed the heights specified in Table 4-6.

g) Signage. Exterior signage is subject to §4-21, Article II of the Daleville Code of Ordinances

except as follows:

1) Freestanding signs shall not exceed the heights specified in Table 4-6. Freestanding signs are prohibited in the Donnell Shopping Center Overlay District unless approved as a Special Exception by the Board.

2) Window signs shall not occupy more than 25% of the total window area on the front façade.

Table 4-6 Maximum Height of Freestanding Lights and Signs

Freestanding Lights Freestanding Signs

Daleville Ave. 30 ft 20 ft Donnell Shopping Center 25 ft 15 ft Highway 84 35 ft 35 ft Highway 134 30 ft 25 ft

Zoning Ordinance 4-7

h) Landscaping.

1) Frontage landscaping. A landscaping strip shall be installed along all street frontages and shall include canopy and/or understory trees and shrubs in accordance with Table 4-7.

2) Perimeter landscaping. Landscaping strips having a minimum width of five feet shall be installed along all side and rear property lines. Each landscaping strip shall be grassed or otherwise planted and contain one understory tree and five shrubs per every 50 ft of

property line. Trees and shrubs should be evenly spaced. Mulch or other non-living ground cover may be used where trees, shrubs or flowers are planted.

The Administrative Official may waive or modify landscaping requirements along rear property lines where existing vegetation meets, in whole or part, this requirement.

Where a property abuts less-intensive uses along side or rear property lines, a buffer shall be required in accordance with §7.01 Buffers, in which case the more restrictive requirement shall govern.

3) Interior Landscaping. No more than 20 contiguous (side-by-side) parking spaces shall be constructed without a landscaped island. At least half of such islands shall be at least nine feet wide; the remainder shall be at least four and one half feet wide. All such islands shall be at least 15 ft in length and contain an understory or canopy tree. Landscapes islands shall be grassed, planted or surfaced with mulch or similar ground cover.

If the size of an existing vehicular area is increased by 10% or 10 spaces, whichever is greater, the new vehicular area shall be made to comply with these interior landscaping requirements.

4) All sites shall be developed in such a way that significant existing trees are preserved and incorporated into the landscaping.

Table 4-7 Landscaping Requirements in Commercial Overlay Districts

Min. understory

Max. evergreen

Max. deciduous

Min. frontage landscaping

shrubs 2

strip width

Min. canopy trees per frontage 1

trees per frontage 1

shrub spacing

Daleville Ave. 6 ft 50 ft 40 ft 8 ft

10 ft Donnell Shopping Center 6 ft 45 ft 35 ft 6 ft Highway 84 10 ft 60 ft 45 ft 8 ft Highway 134 8 ft 60 ft 45 ft 8 ft 1 Frontage landscaping shall include either canopy trees or understory trees. If both are used (for example, in an alternating pattern) the number of trees required shall be the average of the requirements for canopy and understory trees. 2 Deciduous shrubs may be used only with a fence/wall meeting requirements of §7.04. 4.06.03. Additional Requirements.

4-8 City of Daleville

Article 4 District Regulations

a) Rigid or fixed awnings and canopies must be maintained and kept free from dirt, mildew

and tears. Worn, faded or torn awnings and canopies shall be replaced.

b) Visibility at an entrance or exit shall not be impaired in any way by display, landscaping or

parked vehicles.

c) When parked and not in use, Class 4 and larger commercial trucks (larger than 14,000 lbs.)

shall be located behind the front building line.

d) Parking areas may not be used for the sale or overnight parking of vehicles not directly

associated with the principal use of the property.

Zoning Ordinance 4-9

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4-10 City of Daleville

Article 4 District Regulations

Table 4-8 Table of Permitted Uses

P P P

R-100 R-85 R-75-S R-75-M R-65 TH-16 TH-20 T-100 T-50 R-50 B-3 B-4 INST M-1 M-2 AGR Residential Uses accessory dwelling, subject to §5.04 SE SE SE SE accessory use or structure, residential P P P P P P P P P P P bed and breakfast, subject to §5.05 SE SE SE SE P boarding house SE P P caretaker dwelling P P P P P P clubhouse, residential P P P P P P P P P P P P day care home SE SE SE SE SE SE day care home, group, subject to §5.07 SE SE SE SE SE duplex dwelling P P dwelling in nonresidential building, subject to §5.06

group care home, family care P SE group home, emergency care SE SE group home, transitional P SE SE home occupation, subject to §5.01 SE SE SE SE SE independent living facility P P manufactured home P P multifamily dwelling P P multiplex dwelling P P SE single-family dwelling, detached P P P P P SE SE P P P townhouse dwelling P P triplex dwelling P P Commercial Uses adult-oriented uses, subject to §5.08 SE SE alternative financial service, subject to §5.08 P P bakery, major P P bakery, minor P P bank or financial institution P P P broadcast studio P P P SE business support service P P P construction service P P P SE day care center, subject to §5.07 SE SE SE P entertainment, indoor P SE entertainment, outdoor

race track or drag strip

P SE SE equipment rental, heavy SE SE P P equipment rental, light P P P P fitness center P P P funeral home P P P garden center or nursery P P P P gas station P P P P home improvement center P P

P = Permitted by right SE = Permitted on appeal/Special Exception

- = Permitted in accordance with Chapter 44 of the Code of Ordinances 4-11

Table 4-8 Table of Permitted Uses

SE

R-100 R-85 R-75-S R-75-M R-65 TH-16 TH-20 T-100 T-50 R-50 B-3 B-4 INST M-1 M-2 AGR hotel P P kennel SE SE SE laundry services P P P liquor lounge P P maintenance service P P P P manufactured home sales SE SE P medical or dental laboratory SE SE P P medical clinic P P P medical support service P P P mini-warehouse, subject to §5.02 SE SE P P motel P P office, business or professional P P P P parking, commercial or public SE SE SE P P SE personal service P P P printing establishment, major SE SE P P printing establishment, minor P P P P recording studio P P P repair service, minor P P P P restaurant, fast food P P P restaurant, standard P P restaurant, take-out only P P retail, general-enclosed P P P retail, general-unenclosed SE SE P school, commercial P P P P P storage, outdoor (as a principal use) P P studio P P P tattoo/body piercing establishment, subject to §5.08

vehicle and equipment sales, rental and service P P P vehicle repair, major P P P P vehicle repair, minor P P P P vehicle sales or rental P P P veterinary hospital SE SE SE P SE wholesaling establishment P SE P P Industrial Uses industry, heavy (other than those listed below) SE lumberyard or lumber mill SE SE oil, gas or alcohol above ground storage in

SE SE

excess of 500 gallons

grist or flour mill SE SE slaughterhouse SE stockyard SE bag cleaning SE

4-12 P = Permitted by right SE = Permitted on appeal/Special Exception

- = Permitted in accordance with Chapter 44 of the Code of Ordinances

Article 4 District Regulations

Table 4-8 Table of Permitted Uses

R-100 R-85 R-75-S R-75-M R-65 TH-16 TH-20 T-100 T-50 R-50 B-3 B-4 INST M-1 M-2 AGR mixing plant (cement, mortar, plaster, asphalt) SE curing, tanning, storage of hides SE distillation of bone, coal, tar or wood SE fat rendering SE forage plant SE manufacture of acetylene, acid, alcohol,

SE

ammonia, bleaching powder, brick, pottery, terra cotta or tile, concrete blocks, candles, disinfectants, dyestuffs, fertilizers, illuminating or heating gas including storage, paint, turpentine, varnish, soap, and tar products

wool pulling/scouring SE cotton waste reclaiming SE industry, light (other than those listed below) SE SE rag storing SE P baling SE P bottling plant P P ice cream plant or creamery P P cold storage plant P P ice plant P P distribution center P P textile mill P P dyeing plant P P laundering plant P P recycling center SE SE P P recycling plant P P research laboratory SE SE P P resource extraction

coal yard

SE SE

SE SE

sanitary landfill SE SE SE truck terminal P P warehousing P P wrecking or junk yard, subject to §5.03 SE SE Public, Institutional, Transportation and Telecommunications Uses

airport or landing field SE SE SE amateur radio tower P P P P SE P SE SE P P P animal shelter SE SE SE P assisted living facility SE SE P club SE SE P hospital SE P nursing care facility P P P place of assembly, up to 250 seats P P P P P P SE P

P = Permitted by right SE = Permitted on appeal/Special Exception

- = Permitted in accordance with Chapter 44 of the Code of Ordinances 4-13

Table 4-8 Table of Permitted Uses

R-100 R-85 R-75-S R-75-M R-65 TH-16 TH-20 T-100 T-50 R-50 B-3 B-4 INST M-1 M-2 AGR Greater than 250 seats SE SE SE SE SE P P public facility, up to 12,500 sf

Greater than 12,500 sf

SE SE SE SE SE P P

P P

P P

P P

P P

P P public utility facility

power/gas substations & pumping stations

P SE

P SE

P SE

P SE

P SE

P SE

P SE

P SE

P SE

P SE

P SE

P SE

P SE

P SE

P SE

P SE

P SE school, private SE SE P SE school, public, elementary and junior high

SE

SE

SE

SE

SE

high school

P P

P P

P P P P telecommunication tower * * * * * * * * * * * * * * * * Agricultural Uses dairy P farm (agriculture, poultry, livestock) SE SE SE SE P farm support business SE P P P livestock sales P riding academy P roadside stand P Open Space and Recreational Uses campground P cemetery P P common open space P P P P P P P P P P P P P P P country club SE SE SE SE SE SE SE SE P P park P P P P P P P P P P P P P P P recreation, indoor P P P P P recreation, outdoor P P P P P recreational vehicle park, subject to §5.09 SE SE

4-14 P = Permitted by right SE = Permitted on appeal/Special Exception

- = Permitted in accordance with Chapter 44 of the Code of Ordinances

ARTICLE 5. USE SPECIFIC REGULATIONS

§5.01. Home Occupations

5.01.01. Where permitted, Home Occupations shall comply with the following requirements:

a) No persons other than members of the family residing on the premises shall be employed

by the home occupation.

b) The home occupation must clearly be secondary and incidental to the use of the dwelling

unit as a residence. No more than 25% of the dwelling unit shall be devoted to the home occupation.

c) The appearance of the dwelling unit shall not be altered, nor shall the home occupation be

conducted in any way that would cause the premises to differ from its residential character and that of the immediate neighborhood.

d) The home occupation may be operated only in the principal dwelling.

e) There shall be no outside display or storage of materials, goods, supplies, or equipment

used in the home occupation; nor shall there be any sign advertising the home occupation.

f) No traffic shall be generated by the home occupation in greater volumes than would

normally be expected in a residential area. Any need for parking generated by the home occupation shall be met off the street and other than in the front yard.

g) The operation of a home occupation shall not create any nuisance such as noise, vibration,

glare, odor, fumes, dust, heat, fire hazards, electrical interference or fluctuation in line voltage, or be present or noticeable beyond the property boundaries.

5.01.02. No more than one home occupation shall be approved in any residential dwelling unit.

5.01.03. Home occupations require approval of a Special Exception by the Board in accordance with §9.05. Final approval of a home occupation shall be contingent upon the applicant obtaining a valid business license from the City.

§5.02. Mini-warehouses

5.02.01. Any outdoor storage shall be screened as required in §7.03 Screening.

5.02.02. No storage of volatile, toxic or explosive materials shall be permitted, either inside the structure(s) or on the premises.

5.02.03. Storage spaces shall not be used for commercial activities. However, this shall not include periodic auctions, which are held on the premises to dispose of items which have been abandoned and/or for which the lease time has expired.

Zoning Ordinance 5-1

§5.03. Wrecking and Junk Yards

5.03.01. No automobile wrecking yard, salvage yard or junkyard shall be established closer than 300 ft to an established residential district.

5.03.02. All outdoor storage of salvage and wrecking operations shall be completely contained within a fence or wall of not less than six nor more than ten feet in height. Such fence shall be designed in accordance with §7.04 Design Standards for Required Fences.

5.03.03. The storage of wrecked automobile, junk, or salvaged materials shall not exceed the height of the required screen fence or wall.

§5.04. Accessory Dwellings

Accessory dwellings shall only be permitted as an accessory use to a permitted single-family detached dwelling and in accordance with the following:

5.04.01. Area and Dimensional Requirements.

a) Accessory dwellings shall only be permitted on lots with a minimum lot size of 10,000 sf.

b) The minimum habitable floor area shall be 300 sf and the maximum habitable floor area shall be 30% of the gross floor area of the principal dwelling.

c) If detached from the principal dwelling, accessory dwellings shall be to the rear of the principal dwelling or within the upper floor of a detached garage or similar permitted accessory structure and shall be set back as otherwise required of accessory structures.

5.04.02. Additional Requirements.

a) One parking space, in addition to that required for the principal dwelling, shall be provided.

b) Accessory dwellings, whether attached to the principal structure or contained within an accessory structure, shall maintain the appearance of the principal dwelling, including colors, materials, and style, and shall not create additional entrances toward the front of the property.

c) Accessory dwelling shall not have a separate address or separate utilities.

§5.05. Bed and Breakfasts

Bed and breakfasts shall only be permitted in single-family detached dwellings, shall only be operated by the owner and resident of the dwelling, and shall comply with the following provisions:

5.05.01. All guest rooms shall be located within the principal structure.

5.05.02. Individual guest rooms shall contain no cooking facilities, and no food preparation or cooking shall be allowed.

5.05.03. For each and every approved guest room, there shall be provided one parking space, in addition to the spaces required for the residence. Such additional required parking spaces shall be screened from adjacent properties and arranged so that each space has direct access to a driveway. Recreational vehicle parking for guests shall be prohibited on premises less than one acre in area.

§5.06. Dwellings in Nonresidential Buildings

Dwelling units located in buildings otherwise designed and used for nonresidential purposes, where permitted, shall be subject to the following requirements.

5.06.01. Emergency egress and fire separation shall comply with all requirements of the Building and Fire Codes.

5.06.02. Dwellings in nonresidential buildings shall be located in upper floors. However, a dwelling unit may be permitted in a single-story building by Special Exception upon approval of the Board of Adjustment.

5.06.03. When more than one dwelling is proposed within a nonresidential building:

a) Dwelling units shall not be located on the same floor as any nonresidential uses.

b) Dwelling units shall not be accessible directly from another unit or use within the building.

§5.07. Day Care Centers

5.07.01. A plat or development plan shall be approved by the Commission prior to approval of a building permit or privilege license.

5.07.02. Minimum lot area shall be 10,000 sf.

5.07.03. Any outdoor play area shall be completely enclosed by a fence or wall with a minimum height of four feet and with locks on all exits.

5.07.04. All day care facilities shall meet all applicable city, county and state regulations.

§5.08. Restricted Uses

Because of their very nature, certain types of businesses are recognized, particularly when several of the same type are concentrated in an area, to have deleterious effects upon adjacent areas, detract from property values and can have adverse effects on the general welfare. To mitigate such adverse impacts, these Restricted Uses, including but not limited to alternative financial services, tattoo and body piercing establishments, and adult-oriented uses shall be subject to the locational requirements in Table 5-1. Distances are measured between nearest property lines or between the property line of the concerned use and nearest residential zoning district boundary, as appropriate.

Table 5-1 Restricted Uses

Minimum Distance from

use of the same

day care center, K-12 school

Restricted Use Type

type

or place of worship

residential zoning district

Alternative financial service 1000 ft 350 ft 350 ft

Tattoo and body piercing establishments 500 ft 500 ft 350 ft

Adult-oriented uses 1000 ft 500 ft 500 ft

§5.09. Recreational Vehicle Parks

5.09.01. Lodging in recreational vehicle parks shall not exceed a stay of longer than 14 continuous days.

5.09.02. A site plan shall be submitted to the Planning Commission for consideration in accordance with §10.05 Site Plan Review.

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Article 6 Parking and Loading

ARTICLE 6. PARKING AND LOADING

§6.01. Off-street Parking and Loading Terms

The following off-street parking and loading terms, when used in this Article, shall have the meanings defined in this Section:

6.01.01. Employee. The maximum number of persons employed at the facility regardless of the time period during which this occurs or whether the persons are full-time employees. The major shift may be a particular day of the week or a lunch or dinner period in the case of a restaurant.

6.01.02. Gross Leasable Area (GLA). The total floor area of a building designed for both tenant occupancy and exclusive use. GLA includes both owned and leased areas but does not include shared or common areas among tenants. Where the total floor area of a building is occupied or where a building has no shared or common area, GLA is the gross floor area measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

6.01.03. Loading Area. That area used to satisfy the requirements of this Ordinance for truck loading and unloading.

6.01.04. Loading Space. An off-street space or berth used for the unloading or loading of commercial vehicles.

6.01.05. Occupancy Load. The maximum number of persons, which may be accommodated by the use as determined by its design or by fire code standards.

6.01.06. Parking Aisle. That portion of the parking area consisting of lanes providing access to parking spaces.

6.01.07. Parking Area. An improved area on a lot exclusively used or designed for use as a temporary storage area for motor vehicles, containing access driveways, parking aisles and parking spaces.

6.01.08. Parking Space. That portion of the parking area set aside for the parking of one (1) vehicle.

6.01.09. Stacking Space. An off-street space for the temporary stacking of vehicles with an aisle intended to serve a drive-in teller window, take-out food window, dry cleaning/laundry pick-up or similar type activity station.

§6.02. Required Off-street Parking Spaces

Unless otherwise provided for, all uses shall conform with the minimum parking space requirements outlined in Table 6-1. In situations where the required number of parking spaces is not readily

determinable by Table 6-1, the Administrative Official is authorized to determine the parking space requirements using the table as a guide.

Table 6-1 Required Off-Street Parking Spaces by Use

Agricultural Uses

Farm 1 per 1.05 employees

Farm Stand 1 per 250 sf of retail floor area

Farm Support Business 1 per 1.05 employees, plus 1 per company vehicle

Stable 1 per 3 persons of occupancy load plus 1 per 1.05 employees

Residential Uses

Accessory Dwelling 1 per DU

Boarding House 1 per BR

Duplex 2 per DU

Independent Living Facility 2 per 3 DUs plus 1 space per employee

Manufactured Home 2 per Manufactured Home, when located on its own lot

1.5 per manufactured home located in a manufactured home park

Multifamily Developments,

Multiplexes

1 per studio, efficiency or 1-BR unit 1.75 per 2-BR unit 2.0 per 3+ BR unit

Single-family Dwelling,

2 per DU

Townhouse Dwellings

Institutional Uses

Assisted Living Facility 1 per 4 residents plus 1 per employee

Club 1 per 100 sf of non-storage and non-service floor area

Community Center 1 per 300 sf of GLA

Country Club 1 per 3 persons of occupancy load

Day Care Center 1 per employee, plus 1 stacking or parking space per 8 persons enrolled of occupancy load

Group Home (Emergency Care,

1 per 4 beds plus 1 per employee

Family Care and Transitional Homes)

Hospital 1 per 2 patient beds plus 1 per emergency room bed plus 1 per employee

Library 1 per 500 sf of GLA

Nursing Care Facility 1 per 4 beds plus 1 per employee

Place of Assembly 1 per 3 seats in the main assembly space

Public Facility 1 per 300 sf of GLA

Table 6-1 Required Off-Street Parking Spaces by Use

Rehabilitation Facility 1 per 4 beds plus 1 per employee

School, College or University 1 per 5 students plus 2 per 3 employees

School, Elementary or Junior

High/Middle

1 per classroom, plus either 1 per employee or 1 per 3 seats in the main assembly space (whichever is greater)

School, High 1 per 8 students of occupancy load, plus either 2 spaces per classroom or 1 per 3 seats in the main assembly space (whichever is greater)

School, Vocational 1 per 3 students of occupancy load plus 1 per employee

Commercial Uses

Animal Hospital 1 per 300 sf of GLA

Art Gallery 1 per 350 sf of GLA

Automobile Dealership 1 per 200 sf of interior sales area plus 1 per 4,000 sf of outdoor display area plus 1 stacking space per service bay

Automobile Parts Store 1 per 400 sf of GLA plus 1 per employee

Automobile Rental

1 per 400 sf of GLA plus 1 per rental vehicle

Establishment

Automobile Repair Service 1 per employee plus 2 stacking spaces per service bay plus 1 per company vehicle

Bank (no drive-thru) (drive-thru only) (with drive-thru)

1 per 250 sf of GLA 1 per 2 employees plus 3 stacking spaces per teller 1 per 350 sf GLA plus 3 stacking spaces per teller

Barber or Beauty Shop, Nail

2.5 per chair

Salon

Bowling Alley 3.5 per bowling lane

Call Center, Telemarketing

1 per 150 sf of GLA or 1 per employee, whichever is greater

Office

Car Wash (full service or

1 per employee plus 4 stacking spaces per bay

automated)

Car Wash (self-service) 3 stacking spaces per approach lane plus 2 drying spaces per stall

Clinic 6 per practitioner

Commercial School 1 per 3 students of occupancy load plus 1 per employee

Convenience Store 1 per 200 sf of GLA

Dry Cleaning Pick-Up 1 per 300 sf of GLA

Funeral Home 1 per 1 employee plus 1 per 3 seats of occupancy load plus 1 per company vehicle

Furniture Store 1 per 600 sf of GLA

Service Station 2 per service bay plus 1 per company vehicle plus 1 per employee plus 1

Zoning Ordinance 6-3

Table 6-1 Required Off-Street Parking Spaces by Use

stacking space per fuel island

Gas Station/ Convenience Store 1 per 300 sf of GLA plus 1 stacking space per fuel island

General Retail Business Under 50,000 sf: 1 per 200 sf of GLA 50,000-99,999 sf: 1 per 250 sf of GLA 100,000+ sf: 1 per 300 sf of GLA

Home Improvement Center,

1 per 400 sf of GLA

Appliance Store

Hotel or Motel 1 per room plus 1 per employee

Laundromat 1 per 2 washing machines

Liquor Lounge (free standing) 1 per 100 sf of GLA

Mini-Warehouse 5 spaces adjacent to leasing office (if any)

Office, business or professional 1 per 250 sf of GLA

Movie Theater 1 per 3 seats

Open Air Market 1 per 500 sf of display area plus 1 per employee

Outdoor Recreation

Golf Course: Miniature Golf: Golf Driving Range: Other:

4 per hole 2 per tee 1 per tee 1 per 3 persons of occupancy load

Pool Hall 1 per table

Restaurant, Carry-Out and/or

1 per employee plus 1 per 300 sf of GLA

Delivery

Restaurant, Drive-in 1 per ordering station plus 1 per employee

Restaurant, Drive-thru 1 per 100 sf of GLA plus 4 stacking spaces per drive-thru window

Restaurant, Standard 1 per 3 seats of occupancy load

Shopping Center see General Retail, plus requirements for any non-retail uses

Bed and Breakfast 2 spaces plus 1 per guest room

Industrial Uses

General Industry and

1 per 1 employee on largest shift plus 1 per company vehicle but not less than 1 per 1,000 sf of GLA

Manufacturing, Research Laboratory and similar uses

Warehouse, distribution and

wholesale Business

1 per 1 employee on largest shift plus 1 per company vehicle but not less than 1 per 500 sf of GLA

6.02.01. Shared and joint parking.

a) Subject to approval by the Commission, minimum parking requirements for a mixed-use

development may be reduced by calculation of shared parking requirements for the

development using the shared parking demand information in Table 6-2. An example is provided in Figure 6-1.

b) A joint parking area may contain required parking spaces for more than one (1) use,

provided the combined number of spaces complies with the parking for all uses. If, however, the combined uses wish to make use of the same spaces at different times, the same spaces may be credited to each separate use. The applicant for a, combined use facility must present documentation of a combined parking agreement; and, if sharing the same spaces, a time schedule for allocation of such spaces.

Table 6-2: Typical Shared Parking Demand by Use and Time of Day*

Parking Demand by Use Weekday 8am-5pm Weekday 6pm-12am Weekday 12am-6am Weekend 8am-5pm Weekend 6pm-12am Weekend 12am-6am

Residential 60% 100% 100% 80% 100% 100%

Office 100% 20% 5% 5% 5% 5%

Commercial 90% 80% 5% 100% 70% 5%

Lodging 70% 100% 100% 70% 100% 100%

Restaurant 70% 100% 10% 70% 100% 20%

Entertainment 40% 100% 10% 80% 100% 50%

Movie Theater 40% 80% 10% 80% 100% 10%

Institutional (non-church) 100% 20% 5% 10% 10% 5%

Institutional (church) 10% 5% 5% 100% 50% 5%

- Different parking demands may be used than the typical shown here if documented in a parking demand study.

Figure 6-1: Shared Parking Reduction EXAMPLE

A B C D E F

Conventional

Weekday

Weekday

Weekend

Weekend

parking demand

Weekday 8am-5pm

Weekend 8am-5pm

Shared vs. Conventional Demand

6pm- 12am

12am- 6am

6pm- 12am

12am- 6am

1- Residential 100 60 100 100 80 100 100

2 - Office 100 100 20 5 5 5 5

3 - Commercial 100 90 80 5 100 70 5

4 - Lodging 100 70 100 100 70 100 100

5 - Restaurant 100 70 100 10 70 100 20

6 - Total Demand 500 390 400 220 325 375 230

Conventional Demand = 500 spaces

Shared Parking Demand (greatest value from Line 6 Columns A-F) = 400 Spaces

Shared Parking Reduction = 100 Spaces

6.02.02. Off-street Parking Design Requirements

a) Minimum parking space dimensions shall be as shown in Table 6-3 and Figure 6-2.

b) In parking areas of 20 or more parking spaces, up to 20% of the spaces may be reserved for

compact cars. Compact car spaces shall have a minimum rectangular area eight feet wide by 16 ft long and shall be marked for compact cars only.

c) Stacking space shall have a minimum rectangular area of ten feet wide by 20 ft long and be

separate from parking aisles and spaces.

d) Handicapped parking spaces shall be provided in accordance with the provisions of the City

Building Code or other applicable regulations.

e) Parking areas shall be designed so that vehicles may exit a premises without backing onto a

public street. This requirement does not apply to parking areas that serve single-family or duplex lots; although, backing into arterials shall be prohibited in all cases.

f) Parking spaces, except those serving single-family or duplex dwelling units, shall be

demarcated with painted lines or other markings.

g) Parking areas for all developments shall be so designed that sanitation, emergency and

other public service vehicles can adequately and safely serve such developments without the necessity of backing unreasonable distances or making other dangerous maneuvers. Fire lanes may be required by the Fire Code.

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Article 6 Parking and Loading

Table 6-3: Parking Lot Dimensional Requirements

Aisle Width (E)

Parking Angle Stall Width (A)

Stall Length (B)

Stall Depth (C)

Curb Length (D)

Interlock (F) One-Way Two-Way

0▼ 8 ft 22 ft 8 ft 22 ft 12 ft 20 ft na

30▼ 8.5 ft 20 ft 17.4 ft 17 ft 15 ft 20 ft 3.9 ft

45▼ 8.5 ft 20 ft 20.2 ft 12 ft 15 ft 20 ft 3.2 ft

60▼ 9 ft 19 ft 21 ft 10.4 ft 20 ft 24 ft 2.3 ft

90▼ 9 ft 19 ft 19 ft 9 ft 20 ft 24 ft na

Figure 6-2: Parking Lot Dimensional Requirements (see also Table 6-3)

h) All parking areas shall be surfaced with dust-free materials and shall be maintained in good

condition, i.e. free of pot holes, weeds, trash, refuse, etc.

i) Drainage in parking areas shall direct storm water back into the site from adjacent

properties toward adequate drainage channels. Parking areas of 20 or more spaces may be required to provide on-site storm water detention to mitigate the sudden discharge of high volumes of storm water into the public drainage system. Drainage plans, if required, shall be subject to approval by the Administrative Official and City Engineer.

6.02.03. Location of Required Parking. All required parking spaces shall be located on the same lot as the use served by the parking, except as provided below:

Zoning Ordinance 6-7

a) Required parking within planned residential developments may be provided in common

parking areas.

b) If the number of required parking spaces cannot reasonably be provided on the same lot or

premises as the served use, remote parking may be permitted by a Special Exception if within 400 ft of the concerned lot(s). Such Special Exception requires written legal documentation that the user of such remote spaces has the right to such spaces.

6.02.04. Parking Prohibitions

a) The use of off-street parking in any residential district for nonresidential purposes is

prohibited unless expressly approved as a Special Exception by the Board of Adjustment.

b) The use of any required parking space for the storage of any motor vehicle for sale or for

any purpose other than parking is prohibited.

§6.03. Street Access

Proposed driveways or similar accesses to public streets shall be reviewed and approved by the Administrative Official unless the development requires subdivision or site plan approval by the Commission. The proposed location, width, drainage structure, traffic conditions, sight distances and resurfacing shall be provided with request for approval. Review of proposed access points for multifamily and nonresidential uses shall take into account the following standards:

6.03.01. New driveways shall be placed as far as practicable from street intersections.

6.03.02. The number of driveways serving one premises along the same street frontage shall be kept to a minimum. Along arterials, shared driveways are encouraged.

6.03.03. Driveways along the same street frontage, whether or not on the same premises, shall be separated by the largest distance feasible.

6.03.04. The width of driveways, along the street frontage, shall be kept to the minimum necessary to serve the amount and types of vehicles accessing the premises. Except at driveways, on-site vehicular areas shall be separated from public streets by a curb, landscaping or other improvement required by the Subdivision Regulations.

6.03.05. Driveways shall be a minimum of five feet from the nearest edge of a street drainage inlet.

§6.04. Off-Street Loading

6.04.01. Required Off-Street Loading Spaces. All nonresidential premises shall provide and maintain adequate space for the loading and unloading of materials or goods, and for delivery and shipping, so that such operations can be accomplished without encroaching upon or interfering with the use of adjoining properties, public streets, alleys and sidewalks.

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Article 6 Parking and Loading

a) Each retail store, storage warehouse, wholesale establishment, industrial plant or factory,

freight terminal, market, restaurant, funeral home, laundry or dry cleaning plant, or similar use shall provide loading space as follows:

1) Less than 8,000 sf of gross floor area: no loading space required unless the Commission determines that the specific use requires such space

2) 8,000 but less than 20,000 sf of gross floor area: one loading space required

3) 20,000 but less than 60,000 sf of gross floor area: two loading spaces required

4) Over 60,000 sf of gross floor area: two loading spaces required, plus one additional space for every 50,000 sf of gross floor area or fraction thereof over 60,000 sf

b) For each auditorium, convention hall, exhibit hall, hotel, office building, stadium,

sanitarium or similar use, shall provide off-street loading space as follows:

1) Less than 10,000 sf of floor space: no off-street loading space is required unless the Commission determines that the specific use requires such space.

2) 10,000 but less than 40,000 sf of gross floor space: one off-street loading space is required.

3) Over 40,000 sf of floor space: one off-street loading space plus one additional space for every 50,000 sf or fraction thereof over 40,000 sf.

6.04.02. Off-street Loading Design Standards

a) Each loading space shall have a minimum rectangular area 12 ft wide by 55 ft long,

exclusive of maneuvering space, with a minimum vertical clearance of 14 ft.

b) Joint or combined loading space for two or more buildings on the same lot can be provided

as long as the amount of the combined space is equal in size and capacity to the combined requirements of the buildings to be served.

c) No loading space shall be located within the front yard or within five feet of any property

line.

d) No loading space shall be used to meet the parking space requirement, interfere with

vehicular circulation on-site, nor require a truck to extend into any right-of-way or over any property line.

§6.05. Change in Parking and Loading Requirements

Whenever there is an alteration of a structure, an expansion of a use or a change in use, which increases the parking and loading requirements, the use shall conform with the off-street parking and loading standards of this Ordinance to the furthest practicable extent.

Zoning Ordinance 6-9

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Article 7 Landscaping

ARTICLE 7. LANDSCAPING

The intent of this Article is to establish standards for buffers between incompatible land uses, for screening of appurtenances from public views, and for landscaping in association with vehicular areas. For the purposes of this Article, “fences” and “walls” shall have the same meaning. Landscaping shall not be planted in a manner or location, which causes a hazard to vehicles entering or within the public right-of-way.

§7.01. Buffers

7.01.01. Applicability. Whenever a use is proposed that will be of greater intensity than an abutting, existing use, in accordance with Table 7-1, a buffer shall be provided on the premises of the developing use to mitigate the incompatibility between the uses. Except as provided below, buffer requirements shall be based on the developing land use and the existing, abutting use.

Buffer Illustration

Buffer requirements may be modified by the approving authority in certain cases as follows:

1) When the proposed use will abut an existing, nonconforming use on a property that is designated for another use in the Comprehensive Plan and is zoned accordingly with said plan, the buffer may be modified to be consistent with the planned use of such neighboring property.

2) If the land use relationship between two abutting lots changes so that a lesser buffer would be required, the width of the previously provided buffer may be reduced accordingly.

3) Up to one-half of the width of an abutting alley may be counted toward the buffer width requirement but the landscaping density requirements shall not be reduced.

Zoning Ordinance 7-1

b) Whenever the proposed use abuts vacant land, buffer requirements shall be based on the

zoning of the abutting property or the use projected by the Comprehensive Plan, whichever requires a lesser buffer.

7.01.02. General Standards.

a) For any request where the Administrative Official determines a buffer is required by this

§7.01, a Landscaping Plan shall be provided in accordance with §7.05.

b) Required yards, where corresponding with the buffer area, may overlap and may be

counted toward a buffer width requirement.

c) Buffers shall not be used for parking, recreational use or any other purpose, except as

provided herein. The approving authority may permit a pedestrian access way through a required buffer where appropriate. Public utilities and storm drainage facilities may be constructed in a required buffer, provided the buffer is otherwise installed in compliance with the approved Landscaping Plan. The City may require supplemental plantings to mitigate the effect of any such land disturbance in the buffer.

7.01.03. Design Standards. Buffers shall be designed in accordance with the width and landscaping requirements of Table 7-2.

a) Prior to occupancy of the premises, the buffer shall provide a visually impervious barrier,

from the ground to five feet above grade level throughout the entire length of the buffer. Within one year after installation, the buffer shall be at least six feet above grade throughout the entire length of the buffer.

b) Required plantings shall be evergreen.

c) The required buffer width may be reduced as provided in Table 7-2 when a fence is

provided that is five to seven feet tall and that meets the requirements in §7.04.

Table 7-1 Buffer Requirements By Use

Existing Abutting Uses or Zoning

Detached

Institutional

Parks &

Multiplex,

Business,

green-

Multi-family

Townhouse

Lodging

ways low/medium/high

Developing Land Use

Single-family, Duplex

Residential Buffer Class Required

Detached Single-family, Duplex na na na na na na

Multiplex, Townhouse A na na na na na

Multifamily B A na na na na

Manufactured home/RV parks B B A A A A

Institutional

Low intensity A A na na na na na na

Medium intensity A A na na na na na na

High intensity B B A A na na na A

Business/Commercial

Offices up to 50,000 sf B A A A na na na A

Offices greater than 50,000 sf B B B B A na na A

Lodging B B A na na na na na

Amusement; outdoor entertainment C B B B A na na A

Retail, shopping centers, and restaurants up to 50,000 sf B B A A A na na A

Retail, shopping centers, and restaurants greater than 50,000 sf C B B B A na na A

C B B B A na na A

Heavy commercial, including repair, contractor and automotive uses

Industry

C C C C B B A B

Warehousing, storage, telecommunications towers and public utility facilities

Heavy Industrial uses D D C C C C B B

Zoning Ordinance 7-3

Table 7-2 Planting Requirements by Buffer Class

Width Required trees per 100

Buffer Class

linear feet With fence/wall Without fence/wall

A 10 feet 15 feet 8

B 15 feet 20 feet 10

C 22 feet 30 feet 12

D 30 feet 40 feet 12

§7.02. Landscaping for Vehicular Areas

7.02.01. Applicability. These regulations apply to areas used for off-street parking and loading; vehicular storage, display, maneuvering and washing; and the dispensing of motor fuels.

7.02.02. A Landscaping Plan shall be required as part of every development application for new construction that includes vehicular areas as herein described. This Section shall apply to new vehicular areas for all uses, except single family dwellings, duplexes, and multiplexes. If the size of an existing, applicable vehicular area is increased by 10% or 10 spaces, whichever is greater, the new vehicular area shall be made to comply with the requirements of this Section.

7.02.03. Requirements

a) Each vehicular area shall have interior landscaping covering not less than five percent of the

total vehicular area.

b) A five foot wide landscaping strip shall be provided along the parking lot perimeter and

shall be planted with one understory tree per each 50 foot of length. The landscaping strip may include grass, mulch, or similar groundcover. If a sidewalk is provided at the edge of the vehicular area, the landscaping strip shall be provided along the outside edge of the sidewalk. Where this requirement for a landscaping strip overlaps or conflicts with any other landscaping requirements, the greater requirement shall govern.

c) Vehicular areas shall include canopy and/or understory trees. Shrubs, flowering plants and

other planting materials may also be used, but shall not be the sole component of the landscaping. Shrubs, trees and other plantings shall be set back from the edge of the planted area to protect such plantings from damage by vehicles.

d) Street Frontage Landscaping. A landscaped strip at least six feet wide shall be located

between the vehicular area and the public right-of-way. The width may be reduced to four feet when a fence, meeting the requirements of §7.04 and that is between two and one-half to four feet tall, is provided.

1) Shrubs shall be provided throughout the landscape strip, shall be evergreen and spaced no more than ten feet on center. If used in combination with a fence meeting the requirements of §7.04, shrubs may be deciduous and may be spaced no more than 15 ft on center.

2) At least one understory tree per 50 ft or one canopy tree per 60 ft of required landscape strip shall be planted. Only canopy and understory trees, as defined in Article 2, shall be counted toward these requirements.

§7.03. Screening

Screening provides visual separation of certain activities and site elements from public view.

Screening 7.03.01. Applicability. For all multifamily and nonresidential developments, the following shall be screened from public view:

a) Garbage collection, recycling and refuse handling areas

b) Maintenance areas or utility structures associated with a building or development

c) Water meters, gas meters, electric meters and air conditioners/mechanical units

d) Loading areas

e) Outside runs for veterinary clinics, animal shelters, and kennels

f) Outdoor storage of materials, stock, equipment, and vehicles (such as those stored for repair)

g) Any other uses for which screening may be required by the reviewing authority

7.03.02. Design Requirements. The design of screening shall be in accord with the following and as approved by the reviewing authority:

Zoning Ordinance 7-5

a) Location on site should be the first consideration in providing required screening. The reviewing authority may lessen screening requirements when the location of the use to be screened reduces its visibility to the public and neighboring properties.

b) Screening shall not impede any drainage way and shall not block access to any above-ground, pad-mounted transformer and shall provide the minimum clear distance required by the utility company.

c) The method of screening, including height and materials, shall be that which is sufficient to visually screen the use. The minimum height needed is preferred.

d) Fences, berms, or landscaping used for other purposes, but that are proposed as part of a required screen and that meet the requirements of this Section, may count toward these requirements.

e) Uses requiring screening, when co-located, may be screened together.

f) Uses that produce objectionable noise or odors shall be located on-site to minimize impacts to the public and abutting properties.

g) Shrubs shall be evergreen and spaced no more than five feet on center. If used in combination with a fence, shrubs may be deciduous and may be spaced no more than eight feet on center.

h) Trees shall be evergreen and, when used in the absence of a fence, shall be used together with shrubs to provide a continuous, opaque screen.

7.03.03. Requirements for specific uses

a) Refuse and recycling containers shall not be located forward of the front building line. Such containers shall be screened by a combination of opaque fence and plant material on three sides. Opaque gates shall be installed for access. The fence shall be at least one foot taller than the container.

b) For restaurants, enclosures shall be sized, as needed, to accommodate the storage of

grease containers.

c) Mechanical equipment on roofs or on site shall be screened so as to not be visible from public streets or adjacent properties. The screening of building-mounted mechanical equipment shall be an integral component of the building design. Mechanical equipment installed on site shall be adequately screened by plant materials and/or fences to blend in with site landscaping.

d) Outdoor storage, where permitted, shall be screened to a height of six feet or two feet taller than the material or equipment to be screened, whichever is greater.

e) Service areas, loading docks, work yards, and similar uses should be located to minimize their visibility to the public and to any abutting properties to which such functions would be objectionable. Where their location is insufficient to effectively screen the use, screening shall be at least six feet in height.

§7.04. Design Standards for Required Fences

Fences used as a part of any required buffer, screen, or perimeter landscaping shall comply with the following:

7.04.01. Fences shall be of masonry, durable wood, or a combination thereof. Fences of untreated wood, chain-link, plastic or wire shall not be counted toward landscaping requirements. No more than 25% of the fence surface shall be left open. The finished side of the fence shall face abutting property (horizontal supports, if any, shall be on the inside face of the fence).

7.04.02. Required shrubs and trees shall be planted on the exterior side of the fence.

7.04.03. If a fence is longer than 100 ft in one direction, it shall have columns of wood or masonry, which project outward from the fence surface. Such columns shall be spaced no greater than 50 ft on center.

§7.05. Landscaping Plan

A Landscaping Plan shall be required as part of every development application for new construction which requires a buffer, screening and/or landscaping in vehicular areas. The Landscape Plan shall be drawn to a scale no larger than one inch equals 50 ft and shall contain the following information:

7.05.01. The location and dimension of all areas proposed for landscaping and planting, including a description of the proposed plant materials.

7.05.02. All dimensions and distances, property lines, easements, rights-of-way and buffers.

7.05.03. Existing and proposed buildings and structures, including signs, garbage containers, utility and drainage structures.

7.05.04. Existing buildings and structures on abutting property adjacent to any required screening or buffers.

7.05.05. Bodies of water including detention and retention areas.

7.05.06. Driveways, vehicular areas, existing and proposed parking spaces, access aisles and other vehicular areas.

7.05.07. Sufficient information and detail to demonstrate compliance with the requirements of this Section.

Zoning Ordinance 7-7

§7.06. Modifications

The planting requirements of this Article shall be applied equally to similarly classified and situated properties, but may be modified or waived altogether in certain cases where a building site is subject to any of the following circumstances determined by the Commission:

7.06.01. Existing natural vegetation, which meets, in whole or in part, buffer or screening requirements, may be applied toward the requirements of this Article. Where natural vegetation (trees and/or shrubs) exist on a piece of property, when application is made for a Building Permit, such natural vegetation shall be left undisturbed until the Administrative Official has evaluated it for its suitability as a buffer or screen, as applicable. The Administrative Official may require that the developer retain such natural vegetation. However, additional planting may be required to fully achieve the requirement.

7.06.02. Where impending development of adjacent property would make these standards unreasonable or impractical.

7.06.03. Where, after inspection by the Administrative Official, it is found that the view from adjoining properties is blocked by a change in grade or other natural or man-made features.

7.06.04. Where planting cannot, in the professional opinion of an expert, be expected to thrive due to poor soil conditions, intense shade or similar conditions.

§7.07. Maintenance and Irrigation

7.07.01. All plantings required in this Article shall be permanently maintained in good growing condition by the party required to provide such plantings and, when necessary, replaced with new growth. All fencing shall be permanently maintained in good condition and whenever necessary, repaired or replaced by the party required to provide such fence.

7.07.02. All plant material shall be tended and maintained in a healthy growing condition, replaced when dead and kept free of weeds, refuse and debris.

7.07.03. All required landscaping shall be drought-tolerant, native species or shall be irrigated by an automatic irrigation system.

7-8 City of Daleville

Article 8 Nonconformities

ARTICLE 8. NONCONFORMITIES

§8.01. Intent

If there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance, it is the intent of this Ordinance to permit these lawful non-conformities to continue until they are removed. It is further intended that lawful nonconformities not be enlarged upon, expanded, made more permanent, nor used as grounds for adding other structures or uses prohibited in the same district, except as otherwise provided for in this Article.

Any use, lot, parcel or structure that was unlawful on the effective date of this Ordinance, shall not enjoy the status of a lawful nonconformity as provided herein.

§8.02. Restoration to Safe Condition.

Nothing in this Ordinance shall prevent the restoration of any building or structure to a safe or sanitary condition when required by the proper authorities.

§8.03. Nonconforming Uses

8.03.01. A nonconforming use occupying part of a structure or premises shall not affect the status of uses in the remaining part of the structure or premises.

8.03.02. Permitted Changes. A nonconforming use, or the structure in which it exists, may be changed, altered, structurally altered, repaired, restored, replaced, or relocated without loss of lawful nonconforming use status only in accordance with this Section, and subject to all required approvals. Changes made that are not permitted herein shall forfeit lawful nonconforming status.

8.03.03. Change in Use. A nonconforming use may be changed to a conforming use or to another nonconforming use that decreases the degree of nonconformity. In determining whether a proposed use decreases nonconformity, the following factors shall be considered:

a) Whether the proposed use will change the size, type and scope of the existing use

b) Whether the proposed use will increase the intensity of the nonconforming use, including

hours of operation, noise, odors, and lighting or similar visual impacts

c) Whether the proposed use will have a more or less detrimental effect on conforming uses

in the surrounding area; and

d) Whether the proposed use would increase traffic or require more parking. A more

restrictive nonconforming use shall never be a use which increases traffic or requires more parking than the existing nonconforming use.

Zoning Ordinance 8-1

The Administrative Official may require documents including, but not limited to, site plan or survey to evaluate the request.

8.03.04. Maintenance and Repairs. A conforming or nonconforming structure housing a nonconforming use may be repaired, provided that such repair constitutes only routine maintenance necessary to keep the structure in the same general condition it was in when the use originally became nonconforming. A structure housing a nonconforming use damaged by casualty, as distinguished from ordinary wear and tear, may be restored in accordance with the provisions of §8.05 Restoration After Damage.

8.03.05. Nonstructural changes to buildings may be permitted provided such changes do not increase the land area or gross floor area occupied by any part of the nonconforming use. Such construction shall meet all current requirements of this Ordinance and the City Building Code.

8.03.06. Abandonment, Discontinuance of Nonconforming Use

a) A nonconforming use which has been discontinued for a continuous period of six months or

more, or which is changed to or replaced by a conforming use, shall not be re-established and any future use shall be in conformity with this Ordinance.

b) Operation of use accessory or incidental to the principal nonconforming use during the six

month period does not constitute continuance of the principal nonconforming use. No use accessory to the principal nonconforming use shall continue after said nonconforming use terminates.

§8.04. Nonconforming Structures

8.04.01. When a nonconforming use is located within a nonconforming structure, the regulations for nonconforming structures and nonconforming uses shall both apply.

8.04.02. Conforming structures on a nonconforming lot are not considered nonconforming structures.

8.04.03. A structure or building conforming to use regulations, but not conforming to other provisions of this Ordinance, may be enlarged or altered, provided that such enlargement or alteration conforms to this Ordinance and does not increase the nonconformity.

8.04.04. Continuance. A nonconforming structure may continue as it existed when it became nonconforming, as long as it is maintained in its then structural condition. The structure shall be brought into conformity with this Ordinance, including parking requirements, whenever it is enlarged, extended, reconstructed or structurally altered. Changes made that are not permitted under this Article shall forfeit lawful nonconforming status. Permitted changes shall be limited as follows:

a) A nonconforming structure may only be changed, altered, structurally altered, repaired,

restored, replaced, relocated or expanded in ways that do not increase or intensify the nonconformity, subject to receipt of any required approvals.

b) A nonconforming structure may be repaired, provided that such repair constitutes only

routine maintenance necessary to keep the structure in the same general condition it was in when it became nonconforming. If damaged by casualty, as distinguished from ordinary wear and tear, such structure may be restored in accordance with §8.05 Restoration After Damage.

c) Nonstructural changes may be permitted provided such changes do not increase the land

area occupied by or the gross floor area of any nonconforming structure. Such construction shall meet all current requirements of this Ordinance and the City Building Code.

d) No nonconforming structure shall be moved to any other lot or within the lot on which it

exists unless the structure is brought into conformity with this Ordinance.

§8.05. Restoration after Damage

8.05.01. If a nonconforming structure or a structure housing a nonconforming use is damaged to an extent of less than 60% of its assessed value, according to records of the County Tax Assessor’s office, it may be restored to its condition prior to the casualty, provided that such restoration is begun within six months of the date of the casualty and completed within 12 months of the date of the casualty. For developments that are not assessed individually by the County, the total assessed value of all buildings on the property shall be used when calculating casualty damage.

8.05.02. Restoration should eliminate or reduce the nonconforming features to the extent possible. If the building cannot be restored except to its original nonconforming condition, the owner shall have the right to do so without variance, but, in no event, shall the nonconformity be increased, enlarged or expanded, except under the provisions of §8.04.04 Continuance.

8.05.03. A nonconforming structure or any structure housing a nonconforming use that is damaged by casualty to an extent of 60% or more of its assessed value at the time of the damage, shall not be restored except in conformity with the provisions of this Ordinance.

8.05.04. Restoration shall be subject to issuance of business licenses, if applicable, and building permits; and any work done shall be in compliance with the City Building Code.

8.05.05. Unless otherwise approved by the Board, restoration shall be accomplished within one year of the date of the casualty. However, if the structure is in an area under a federal disaster declaration, and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the owner shall have an additional year from the date of the natural disaster for the building to be restored.

Zoning Ordinance 8-3

§8.06. Nonconforming Lots of Record

8.06.01. A nonconforming lot of record may be used as a building site, provided that the lot, building, and use shall comply with all of the other applicable requirements of the Ordinance; and provided that deeded land was not transferred in conflict with City

Subdivision Regulations. Otherwise, development shall require a variance and/or subdivision approval, as appropriate.

However, this provision shall not apply when two or more lots exist together, with contiguous frontage in single ownership as of the effective date of this Ordinance or any time thereafter. Such land shall be considered to be an undivided parcel for the purpose of this Ordinance and shall not be used or sold in a manner which creates lot area or lot width below the requirements stated in this Ordinance.

ARTICLE 9. BOARD OF ADJUSTMENT

§9.01. Establishment and Membership

The Board of Adjustment heretofore established is hereby continued, and its members shall be appointed and vacancies filled in accordance with Sections 11-52-80 and 11-52-81 of the Code of Alabama, 1975, as amended. All members of the Board shall be citizens and residents of the City.

§9.02. Powers and Duties

The Board, in appropriate cases and subject to appropriate conditions and safeguards, shall have the following powers:

9.02.01. Interpretation of Boundaries. To hear and decide upon interpretation of the boundaries of districts established and shown on the map in accord with criteria specified in §1.05 Zoning Map.

9.02.02. Appeals. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by a City official, other than the City Council, acting under the authority of this Ordinance.

9.02.03. Variances. To hear and decide appeals for a variance from the provisions of this Ordinance where owing to special conditions a literal enforcement of such provisions would result in unnecessary hardship as defined in §9.04, but where the spirit of the Ordinance can be observed and substantial justice done.

9.02.04. Special Exceptions. To hear and decide special exceptions upon which the Board is required to act for uses permitted ‘on appeal’ as shown in Article 4 and other Special Exceptions identified in this Ordinance.

§9.03. Administrative Appeals

9.03.01. Appeals may be taken to the Board by any person aggrieved or affected any decision of the Administrative Official relating to the provisions of this Ordinance. Any such appeal shall be filed with the Board within 30 days of the date of the action being appealed. A copy of such appeal shall also be filed with the official or board from whose decision or ruling the appeal is taken.

9.03.02. An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Official certifies to the Board after the appeal has been filed, that by reason of facts cited in such certification a stay would cause imminent peril to life or

property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record.

9.03.03. The Board may affirm, reverse wholly or in part, or modify the Administrative Official’s decision.

Zoning Ordinance 9-1

§9.04. Variances

9.04.01. Any property owner may request a variance from the requirements of this Ordinance where it is claimed that, by reason of exceptional situations or conditions of the concerned property, the strict application and literal enforcement of this Ordinance would result in exceptional and unnecessary hardship upon such owner.

9.04.02. The applicant shall establish and substantiate that the variance, if granted, will conform to all the requirements and standards listed below:

a) The granting of the variance will not permit the establishment of a use that is not otherwise

permitted in the applicable district.

b) There is proof of unique and special circumstances and conditions applicable to the land or

building for which the variance is sought, which do not apply generally to land or buildings in the vicinity, and which circumstances or conditions are such that the strict application of this Ordinance would deprive the applicant of reasonable use of such land or buildings.

c) There is proof of unnecessary hardship and the conditions from which relief is being sought

were not self-imposed.

d) Granting of the variance will not confer upon the applicant any special privilege that is

denied by this Ordinance to other land, structures, or buildings in the same zoning district.

e) The variance as requested is the minimum variance necessary to enable the reasonable use

of the property.

f) The variance shall be in harmony with the general purpose and intent of this Ordinance,

and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.

9.04.03. The Board may prescribe any safeguards or conditions that it deems necessary to secure substantially the objectives of the provisions of this Ordinance to which the variance applies.

§9.05. Special Exceptions

9.05.01. All uses permitted by special exception as listed in Article 4 require approval by the Board.

9.05.02. The Board shall review the request for compliance with this Ordinance and all other applicable codes and Ordinances of the City. In particular the Board shall determine that satisfactory provisions have been made concerning the following, among other considerations of this Ordinance:

a) Access to and from the property and the proposed structure and/or uses, with particular

attention to vehicular and pedestrian safety and convenience, traffic flow and control, and emergency access.

b) The location and accessibility of off-street parking and loading areas.

c) The location and accessibility of refuse and service areas and their potentially adverse

affects upon surrounding properties.

d) The screening and buffering of potentially adverse views and activities from surrounding

properties.

e) Control of noise, glare, odor, surface water runoff, and other potentially disturbing impacts

upon surrounding properties.

f) The availability, location, and capacity of utilities.

g) The location and scale of signs and lighting with particular reference to traffic safety, glare,

and visual compatibility with surrounding properties.

h) The bulk, density, and lot coverage of structures, and yards and open areas, with reference

to their compatibility with the character of the surrounding area.

The Board may impose such conditions that it deems necessary to protect the public interest and the intent of the Comprehensive Plan and this Ordinance in relation to the items listed above and as may otherwise be reasonably necessary. Such conditions shall apply to the land, structure, and use for which the special exception is granted and not to a particular person. Violations of conditions lawfully attached to any special exception shall be deemed to be violations of this Ordinance.

9.05.03. Where owing to the scope of a proposed special exception, including but not limited to consideration of potential traffic and environmental impacts, adequacy of infrastructure and utilities, and similar concerns, the Board may request a review by and recommendations from the Planning Commission prior to rendering a final decision on a special exception request.

9.05.04. The Board may also grant special exceptions for business use of a manufactured home in a business zone upon showing of catastrophic circumstances created by Act of

God or casualty damage. Such special exceptions will be valid for a period not exceeding one year and are not transferable.

§9.06. Filing of Applications, Appeals

Administrative appeals and requests for special exceptions and variances shall be filed, in a form prescribed by the Board, with the Secretary of the Board at least 10 days before the next scheduled hearing date before the Board.

Zoning Ordinance 9-3

§9.07. Time Limit on Obtaining Permits

Unless otherwise specifically stated by the Board, a special exception or variance authorized by the Board shall expire if the applicant fails to obtain a business license, building, sign or other permit pursuant thereto within six months from the date of authorization of the special exception or variance.

§9.08. Abatement of Nuisance

The Board may require the conduct of any use, conforming or nonconforming, which results in unreasonable noise, smoke, gas, vibration, fumes, dust, fire, radio interference, or explosion hazard or nuisance to surrounding property to be modified or changed to abate such hazard to health, comfort, and convenience. The Board may direct the Administrative Official to issue an abatement order, but such order may be directed only after a public hearing by the Board. A hearing to consider issuance of an abatement order shall be held by the Board either upon petition signed by any person affected by the hazard or nuisance or upon the initiative of the Board. An abatement order shall be directed by the Board only upon reasonable evidence of hazard or nuisance and such order shall specify the date by which the hazard or nuisance shall be abated.

§9.09. Rehearings

9.09.01. All decisions rendered by the Board shall be final and binding upon all parties. No appeal, variance or a special exception request shall be accepted or reheard once a decision has been rendered except under one or more of the following conditions:

a) New evidence or information pertinent to the request has been discovered which was not

available to the applicant at the time of the original hearing.

b) The decision resulted from an error in procedures required by this Ordinance or State law

and made by the Board, the Administrative Official, or any other City Officials.

c) The decision resulted from an error in substantive law under the provisions of this

Ordinance or the Code of Alabama, 1975, as amended.

9.09.02. Where no error is alleged and no new evidence is available, a new or more effective presentation by the applicant shall not constitute grounds for a rehearing. Any applicant wishing a rehearing shall appear before the Board to present one or more of the qualifying conditions listed in this Section. If the Board finds that one or more of the qualifying conditions exists, a new application may be submitted. This new application shall

be heard at a subsequent Board meeting, and shall be subject to all regular advertising and procedural requirements. Allowing a new application does not obligate the Board to grant the request.

§9.10. Appeals From Action of the Board of Adjustment

Any party aggrieved by any final judgment or decision of the Board may, within 15 days thereafter appeal there from to the circuit court or court of like jurisdiction, by filing with the Board a written

notice of appeal specifying the judgment or decision from which appeal is taken. In case of such appeal, the Board shall cause a transcript of the proceedings in the case to be certified to the court to which the appeal is taken and the cause in such court shall be tried de novo.

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ARTICLE 10. ADMINISTRATIVE PROVISIONS

§10.01. Enforcing Officer

The provisions of this Ordinance shall be administered and enforced by the Administrative Official. This official shall have the right to enter upon any premises at any reasonable time prior to the issuance of Certificate of Occupancy for the purpose of making inspections of buildings or premises necessary in carrying out his/her duties in the enforcement of this Ordinance.

§10.02. Permit Required

It shall be unlawful to commence excavation for or the construction of any building or structure, including accessory structures or pools; or to commence the demolition of any structure; or to store building materials or erect temporary field offices; or to commence the moving, or alteration (except repairs, painting or wall papering and work not changing the character of the structure) of any structure; until the Administrative Official has issued for any and all such work a building permit. Application for permits required under this Ordinance shall be made to the Administrative Official on forms provided for that purpose and supplemented with appropriate plans, diagrams and specifications to demonstrate proposed compliance with the Ordinance. The City Council may from time to time set fees it finds appropriate to various types of permits.

§10.03. Plans Required for Building Permit

10.03.01. It shall be unlawful for the Administrative Official to approve any plans or issue any building permit for excavation or construction until the Administrative Official has inspected such plans in detail and found them in conformity with this Ordinance. To this

end, the Administrative Official shall require that every application for a building permit be accompanied by a plot plan drawn to scale, dimensioned, and showing the following in detail sufficient to ascertain whether the proposed development is in conformance with this Ordinance:

a) The actual shape, proportion, and dimensions of the lot to be built upon.

b) The shape, size, and location of all buildings or other structures to be erected, altered, or moved, and of any buildings or other structures already on the lot, both above and below grade.

c) The existing and intended use of all buildings or other structures.

d) The setback and side lines of buildings on adjoining lots and such other information concerning the lot or adjoining lots as may be essential for determining conformance with the provisions of this Ordinance.

e) Every applicant for the use of land and by virtue of the provisions of this Ordinance, shall include therewith a plan showing the location of necessary fire hydrants with adequate

water flow. The applicant shall provide the Administrative Official with copies of all deed restrictions and/or covenants, which pertain to the subject property.

1) Cover Sheet with:

i) Name and location of the development; name, address and signature of the owner;

and, name, address, and seal of the engineer and/or architect;

ii) Vicinity map;

iii) Zoning and existing and proposed land use of the site; and

iv) Date, scale, north arrow, and number of streets.

2) Site layout, including property dimensions, rights-of-way, easements, location and dimensions of all buildings (existing and proposed), setbacks, driveway access, off-street parking and loading, circulation, screening, buffer yards, and landscaping.

3) Drainage, paving, grading and excavation, erosion and sedimentation control plan, storm water detention, floodplain management controls.

4) Public and private utilities, including sewage disposal system and water system.

5) Fire lanes and hydrants.

10.03.02. The Administrative Official shall review the site plans for completeness and compliance with this Ordinance and shall forward copies of the plans to the Fire Chief, Public Works Department, and Police Chief for their review and comment. The Administrative Official shall provide the applicant with a decision for approval or disapproval within two weeks of submittal. The reasons for disapproval, along with all review comments, shall be stated in writing to the applicant.

10.03.03. A reproducible set of the final approved site plan shall be submitted by the applicant and retained on file by the Administrative Official. All subsequent building permits and subdivision plats submitted by the applicant shall be in substantial accord with the final site plan.

10.03.04. An approved site plan shall become null and void if significant development does not commence within 12 months of approval.

§10.04. Uses

10.04.01. Interpretation of Uses. This ordinance recognizes the limitations of the district use listings given the infinite variations of uses. Therefore, the Administrative Official is empowered to make interpretations so as to classify any questioned use within a listed use of most similar impact and characteristics. Appeals of the Administrative Official's use interpretation may be filed with the Board of Adjustment.

10.04.02. Unclassified Uses. In the event the Administrative Official finds a new or unusual use that cannot appropriately fit a listed use, the following procedures shall be followed:

a) If compatible with the existing district intent, the unclassified use shall be permitted by

Special Exception upon approval and subject to the conditions set by the Board.

b) If the unclassified use would not be compatible with the intent of the existing district, the

Administrative Official shall determine the most appropriate district classification and require the property in question to be rezoned as such before any permit may be issued. In addition, the unclassified use shall be permitted in the new district by Special Exception if granted approval by the Board. Following final action on the unclassified use, the Commission may initiate an amendment to this Ordinance to list the newly permitted use in the most appropriate district(s).

§10.05. Site Plan Review

A Site Plan shall be submitted for approval by the Commission prior to acceptance of an application for a building permit or certificate of occupancy for any development within the B-4 District and any portion of a multifamily or industrial development, manufactured home park, recreational vehicle park, or commercial or institutional development that includes multiple buildings and/or multiple tenants.

The Council may, at its discretion establish by resolution, a fee to cover the costs of the Site Plan Review.

10.05.01. No site plan approval shall be required where the Administrative Official, upon reviewing an application for a building permit for changes in an existing building, is satisfied that the proposed changes will not increase the exterior dimensions of the building nor substantially increase the usable space within the building.

Moreover, Site Plan Review shall not be required where the Administrative Official, upon reviewing an application for a certificate of occupancy, is satisfied that the proposed use is

permitted in the zone, and is substantially similar to the preceding use, and the concerned property has been the subject of an approved site plan. A proposed use shall not be deemed substantially similar to a prior use where this ordinance imposes more stringent requirements for the proposed new use as to off-street parking, yards, height limits or minimum lot size.

10.05.02. The site shall be used and developed only in accordance with the Site Plan approved by the Commission. Use and development of the land or the construction of a building or structure thereon not in compliance with an approved Site Plan shall constitute a violation of this ordinance.

10.05.03. Expiration of Approval. One or more of the uses proposed for the site shall be established within 365 days after the date of approval of the plan or the plan shall become void; provided, that the Commission may extend such time upon request filed within such 365 days; provided, that the total length of such extension shall not exceed one year.

Zoning Ordinance 10-3

10.05.04. The proposed site plan shall be submitted in triplicate to the Administrative Official and shall include the following:

a) One or more scaled drawings or maps (1"=20' unless size dictates a more appropriate

scale), clearly showing the following:

1) Vicinity map, north arrow, scale, accurate shape proportion and dimensions of the site, name of property owner, developer and person drawing map

2) Existing and proposed topography of the site and the surrounding area at two-foot or smaller contour intervals and showing the location of existing wooded areas, streams, and other significant land features

3) Location and dimensions of existing and proposed buildings, structures, curb cuts, driveways, off-street parking and loading areas, signs, walls, fences, screen planting, landscaping, pedestrian walks, open space, and recreational areas for use by employees, residents, tenants or the general public

4) Proposed storm drainage plan

5) Proposed traffic circulation system

6) Proposed dedication of land for public use, including streets, easements, park and school sites, if any

7) The location of all existing and proposed power, gas, sewer and water lines, and the location of any easements to be granted for these utilities

b) The area of the site (in acres and/or square feet) and percentage designated for each

proposed use, the percentage of the site proposed to be covered by buildings, the total number of dwelling units proposed, the number of dwelling units proposed per acre, the area proposed to be paved for parking, driveways, loading space, sidewalks, the total number of parking spaces, and the total floor area of any proposed commercial uses

c) Restrictions on the use of property including proposed restrictive covenants

d) Description of any Special Exceptions or Variances, if any are being requested

e) A statement defining the manner in which the City is to be assured that all improvements

and protection devices, such as buffers, screening, etc., are to be installed and maintained

f) Such other additional information as may be reasonably required by the Planning

Commission to accomplish the purpose of the site plan review function.

10.05.05. Conditions: The Commission shall approve the site plan only upon finding by it that the building, structures, facilities and uses proposed will not:

a) Adversely affect the health or safety of persons residing in or working on the land in

question or in the neighborhood thereof.

b) Be detrimental to the public welfare or adversely affect the use or development of adjacent

or surrounding properties.

c) Constitute a violation of any provision of this ordinance or any other applicable law,

regulation or ordinance.

The Commission, as a condition of approval of a site plan, may require additional buffers or screening when necessary to avoid adverse impact upon adjacent properties. The Commission may also attach other conditions where necessary to assure that the use of land in question will be consistent with the purpose and intent of this Ordinance.

§10.06. Amendments

10.06.01. Petition for Change. A proposed change of district boundaries or regulations of this Ordinance may be initiated by the City Council, the Planning Commission or by petition of property owners or agent of such owners of property within the area proposed to be changed, subject to this Ordinance.

10.06.02. Action On Petition

a) The Commission shall fix a reasonable time for a public hearing and shall give public notice

thereof, as required by law.

b) Any proposed amendment, modification or repeal shall first be submitted to the

Commission for its recommendation and report. The Commission shall have 60 days within which to submit its recommendations to the Council. If the Commission fails to submit a report within the 60 day period, it shall be deemed to have approved the proposed amendment and the Council shall proceed to hold a public hearing pursuant to Title 11, Chapter 52 of Code of Alabama, 1975, as amended.

10.06.03. Limit On Initiation of Amendment. No action shall be initiated for an amendment to this Ordinance affecting the same parcel of land more than once a year, unless specifically authorized by the Council on the grounds that the circumstances and conditions relevant to the amendment request have changed significantly since the prior hearing.

§10.07. Fees

A schedule of application fees for consideration of all approvals, permits, certificates, and public hearings required under this Ordinance shall be established by separate resolution or Ordinance. Such fees shall be computed so as to recover all cost incurred by the City in reviewing and processing zoning-related requests, including advertising fees and shall be adopted and revised as necessary by the Council.

Zoning Ordinance 10-5

§10.08. Certificate of Occupancy Required

The owner, prior to use or occupancy of any building or structure, whose construction or substantial rehabilitation is undertaken after adoption of this Ordinance, shall obtain a Certificate of Occupancy. Within three days after the owner has notified the Administrative Official that a building or premises or part thereof is ready for occupancy or use, the Administrative Official shall consult with the Fire Marshal regarding compliance with all provisions of this Ordinance, make a final inspection thereof, and issue a Certificate of Occupancy if the building or premises or part thereof is found to conform with the provisions of this Ordinance, or, if such certificate is refused, state such refusal in writing with the cause. The Board of Adjustment shall hear appeals from the decision of the Administrative Official. One copy of the signed statement by the owner or his or her agent regarding the intended use of the premises, and a signed refusal (if any) shall be kept on file with the records of the Administrative Official.

§10.09. Expiration of Building Permit

Any permit under which no construction work has been done above the foundation wall or other foundation support within six months from the date of issuance shall expire by limitation, but shall upon reapplication, be renewable, subject, however, to the provisions of any Ordinances in force at the time of said application for renewal. In no event shall any permit be renewed more than one time.

§10.10. Unlawful Structure

Any uses of land or dwellings or construction or alteration of buildings or structures erected, altered, razed or converted in violation of any of the provisions of this Ordinance are hereby declared to be a nuisance per se. The Administrative Official is hereby authorized to apply to a court of competent jurisdiction to abate the nuisance created by such unlawful use of a structure, land or building. Whenever the Administrative Official has declared a structure to be in violation of any applicable provisions of this Ordinance, the owner or occupant shall, within 72 hours from receipt of notification from the Administrative Official to vacate such premises, accomplish such vacation of said structure or premises until such structure or premises has been adapted to conform to the provisions of this Ordinance. Such notification shall be:

10.10.01. By delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion; or

10.10.02. By depositing the notice in the United States as first class certified mail; or

10.10.03. By posting and keeping posted for 72 hours, a copy of the notice in a conspicuous place on the premises to be repaired.

§10.11. Penalties and Remedies

Any person, firm, corporation, or other organization which violates any provisions of this Ordinance shall be fined, upon conviction, not less than $25.00 nor more than $500.00 plus court costs for each offense. Each day such violation continues shall constitute a separate offense. The conviction of a violation and

imposition of any fine shall not constitute an exemption from compliance with the provisions of this Ordinance. In case any building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure or land is used in violation of this Ordinance, the Administrative Official may seek an injunction or writ of mandamus or take other appropriate action or proceedings to stay or prevent occupancy of such building, structure or land.