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ARTICLE I
AUTHORITY AND PURPOSE

Section 1-1. Authority

An Ordinance establishing comprehensive zoning regulations for the City of Madison, Alabama, and providing for the administration, enforcement, and amendment thereof, in accordance with the provisions of Title 11, Chapter 52, Article IV, Sections 11-52-70 through 11-52-84, inclusive of the Code of Alabama (recompiled 1975) and providing for the repeal of all ordinances in conflict herewith.

Section 1-2. Purpose

It is the purpose of this Zoning Ordinance:

A) To protect and provide for the public health, safety, and general welfare of the City.

B) To guide the future growth and development of the City in accordance with the Land Use Plan.

C) To provide for adequate light, air, and privacy; to secure safety from fire, flood, and other danger and to prevent overcrowding of the land and undue congestion of population.

D) To protect the character and the social and economic stability of all parts of the City of Madison and to encourage the orderly and efficient development of all parts of the City.

E) To protect and conserve the value of land throughout the City and the value of buildings and improvements upon the land and to minimize the conflicts among the uses of land and buildings.

F) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, and other public facilities and services.

G) To provide the most beneficial relationship between the uses of land, buildings, and the circulation of traffic throughout the City.

H) To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the City in order to preserve the integrity, stability, and beauty of the community and the value of the land.

I) To preserve the natural beauty and topography of the City and to insure appropriate development with regard to these natural features.

ARTICLE II
TITLE

This Ordinance shall hereafter be known, cited, and referred to as the "Zoning Ordinance of the City of Madison, Alabama".

ARTICLE III

ESTABLISHMENT OF DISTRICTS

Section 3-1. Use Districts and Overlay Districts Named

The City of Madison is hereby divided into districts as shown on the Official Zoning Map filed with the Administrative Officer and adopted by the City government. The map and all explanatory material thereon is hereby made a part of this Ordinance. Districts shall be designated as follows:

Dist.	Type of District	Dwelling Density
R-l	Estate Residential District	(0.97 du/acre)
R-lA	Low Density Residential District	(2.42 du/acre)
R-lB	Low Density Residential District	(2.90 du/acre)
R-2	Medium Density Residential District	(4.14 du/acre)
RZ	Zero Lot Line Residential District	
R-3	High Density Residential District	(8.00 du/acre)
R-3A	Single-Family Detached Residential District	
R-4	Multi-Family Residential District	(12.00 du/acre)
B-l	Neighborhood Business District	(0.00 du/acre)
B-2	Community Commercial District	(0.00 du/acre)
B-2/S-1	Community Commercial Special District 1	(0.00 du/acre)
B-3	General Business District	(0.00 du/acre)
M-l	Restricted Industrial District	(0.00 du/acre)
M-2	General Industrial District	(0.00 du/acre)

AG	Agricultural District	(0.33 du/acre)
PUD	Planned Unit Development District	(as provided)
RC-1	Residential Cluster District Number 1	(2.42 du/acre)
RC-2	Residential Cluster District Number 2	(4.14 du/acre)
ANI	Airport Noise Influence District	(as provided)
FH	Flood Hazard District	(as provided)
HWC	Highway Corridor District	(as provided)
HIS	Historical District	(as provided)
WSP	Water Supply Protection District	(as provided)
DRI	Downtown Redevelopment Incentive Overlay Dist	

Section 3-2. Zoning Map

The Official Zoning Map shall be identified by the signature of the Mayor and attested by the City Clerk, under the following words: "This is to certify that this is the Official Zoning Map of the City of Madison, Alabama", together with the date of the adoption of this Ordinance.

3-2-1 Changes in District Boundaries. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

3-2-2 Unauthorized Changes Prohibited. No changes of any nature shall be made in the Official Zoning Map, or matter thereon, except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons, shall be considered a violation of this Ordinance and punishable as provided under Section 13-2.

3-2-3 Final Authority to Zoning. Regardless of the existence of purported copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map, which shall be located in the Office of the Administrative Officer, shall be the final authority as to the current zoning status of land, buildings, and other structures in the City.

3-2-4 Replacement of Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Commission may, by resolution, adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting, or other errors or omissions, in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the

signature of the Mayor and attested by the City Clerk, under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the City of Madison, Alabama".

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

Section 3-3. Rules for Interpretation of Districts.

Where uncertainty exists with respect to the boundaries of any district as shown on the Official Zoning Map, the following rules shall apply:

(a) District Regulations Extend to all Portions of Districts Surrounded by Boundaries. Except as otherwise specifically provided, a district symbol or names shown within district boundaries of the Official Zoning Map indicates that district regulations pertaining to the district extend throughout the entire area surrounded by the boundary line.

(b) Boundaries Indicated as Approximately Following the Centerlines of Streets or Alleys shall be construed as following such centerlines as they exist on the ground, except where variation of actual location from mapped location would change the zoning status of a lot or parcel. In the case of a street closure, the boundary shall be construed as remaining in its location except where ownership of the vacated street is divided other than at the center, in which case, the boundary shall be construed as moving with the ownership.

(c) Boundaries Indicated as Approximately Following Lot Lines, Public Property Lines, and the like shall be construed as following such lines; provided, however, that where such boundaries are adjacent to a street or alley and the zoning status of the street or alley is not indicated, the boundaries shall be construed as running to the middle of the street or alley. In the event of street or alley closure, interpretation shall be as provided in Subsection 3-3-b above.

(d) Boundaries Indicated as Approximately Following City Limits shall be construed as following such city limits.

(e) Boundaries Indicated as Following Centerlines of Streams, Creeks, or Other Bodies of Water shall be construed as following such centerlines.

(f) Boundaries Indicated as Following Physical Features Other Than Those Mentioned Above shall be construed as following such physical features, except where variation of actual location from mapped location would change the zoning status of a lot or parcel and in such case, the boundary shall be interpreted in such manner as to avoid changing the zoning status of any lot or parcel.

(g) Boundaries Indicated as Parallel to or Extensions of Features Indicated in Subsections 3-3-b through 3-3-e above shall be construed as being parallel to, or extensions of, such feature.

(h) Distances not Specifically Indicated on the Official Zoning Map shall be determined by the scale of the map.

(i) Cases not Covered by Subsection 3-3-a Through 3-3-h Above. In cases not covered by Subsections 3-3-a through 3-3-h above, the Administrative Officer shall interpret the Official Zoning Map in accord with the intent and purpose of this Zoning Ordinance. Appeal from the interpretation of the Administrative Officer shall be only to the Board of Adjustment in conformity with Section 10-7 of this Zoning Ordinance.

(j) Division of a Lot of Record by a District Boundary. Where a district boundary divides a lot of record which was in single ownership at the time of passage of this Ordinance, the Board of Adjustment may permit, as a Variance, the extension of the regulations for either portion of the lot for a distance not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

Section 3-4. Initial Zoning of Newly Annexed Land

All newly annexed land or property which shall be brought into the corporate limits of the City of Madison, Alabama, shall by operation of this Section be initially zoned as AG (Agricultural District) and shall so remain zoned as AG (Agricultural District) until such time as said land or property is rezoned upon request of the landowner or landowners or pursuant to other sections of this Ordinance is further rezoned by appropriate action of the Board of Commissioners.

ARTICLE IV

USE DISTRICTS

Section 4-0. R-l Low Density Residential District (Ord. 97-50) (Ord. 2001-20)

The purpose of the R-l District is to provide low population density residential areas in locations not suitable for higher density due to environmental limitations to development including difficult topography, surface/sub-surface drainage, watershed protection, noise impact constraints, and/or the public good. The R-l District ordinarily will be served by the public water supply and underground utilities. Public sewer may not be available. The regulations for this district are designed to protect the single-family amenities of the district, to promote and encourage a suitable environment for family life and to prohibit all activities of a non-residential nature that do not serve the residents of this district. Within an R-l District as shown on the Official Zoning Map of the City of Madison, the following regulations shall apply:

4-0-1 Permitted Uses

- Detached single-family homes (excluding mobile homes)
- Accessory uses and buildings
- Agricultural uses of the land for crops, residential gardens or landscaping but specifically excluding commercial poultry, animal farms and dog kennels.
- Essential utility services necessary for the performance of utility services, including and limited to water, sewer and sewage lift stations, gas, telephone, and electrical substations and distribution systems.
- Minor Home Occupations

4-0-2 Special Exceptions

- Churches and similar places of worship.
- Buildings for municipal, county, state or federal use including those for public owned and operated utilities, schools, libraries, and facilities for playgrounds, parks, golf courses and country clubs.
- Private schools having curricula substantially the same as that ordinarily given in public schools.
- Major Home Occupations
- Accessory apartments located in the same structure as the principal building or its accessory detached garage provided that the accessory apartment can only be occupied by members of the immediate family and provided further that the special exception will become void when the family occupying the principal structure vacates the principal structure.

4-0-3 Dimensional Requirements

1. Front yard setback: Seventy-five (75) feet.
2. Side yard setback: Forty (40) feet.
3. Rear yard setback: Fifty (50) feet. Unattached rear yard accessory buildings shall be set back ten (10) feet from the utility easement lines.
4. Minimum buildable lot size: Forty-five thousand (45,000) square feet with a minimum required lot frontage of one hundred (100) feet.
5. Minimum lot width at the front building line: One-hundred fifty (150) feet.
6. Lot coverage: Main and accessory buildings shall not cover more than twenty (20) percent of the total lot area.
7. Height: No building shall exceed thirty-five (35) feet or 2 1/2 stories in total height.

Section 4-l. R-lA Low Density Residential District (Ord. 2001-20)

4-1-1 Permitted Uses

- Detached single family homes (excluding mobile homes)
- Accessory uses and buildings
- Family care facility
- Signs subject to the provisions of Article VII
- Essential services, including and limited to water, sewer, gas, telephone, and electrical systems, including substations, lift stations, and similar sub-installations necessary for the performance of these services.

- Minor Home Occupations, subject to the provisions of Article XIV (Ord. 92-25)

4-1-2 Special Exceptions

- Cemeteries
- Churches and similar places of worship
- Fire Stations
- Group Care Facility, provided that no Group Care Facility shall locate closer than 1,500 to an existing Group Care Facility. The 1,500 feet shall be measured from lot line to lot line.
- Major Home Occupations, subject to the provisions of Article XIV
- Mobile Home Subdivision, provided: (1) all subdivisions contain ten or more lots; (2) all mobile homes are underpinned; and (3) all subdivisions are serviced with underground utilities and individual lots are provided with a pedestal
- Parks, playgrounds, golf courses, and country clubs
- Public and Private Schools having curricula substantially the same as that ordinarily given in public schools
- Accessory apartments located in the same structure as the principal building or its accessory detached garage provided that the accessory apartment can only be occupied by members of the immediate family and provided further that the special exception will become void when the family occupying the principal structure vacates the principal structure.

4-1-3 Dimensional Requirements

1. Front yard setback: Forty (40) feet (exception, see Subsection 5-11-4).
2. Side yard setback: Fifteen (15) feet except on corner lots where the side adjoining the right-of-way shall be thirty (30) feet.
3. Rear yard setback: Forty-five (45) feet. Unattached rear yard accessory buildings shall be set back one (1) foot from the utility easement line.
4. Minimum lot size: eighteen thousand (18,000) square feet.
5. Width in feet at building line: one hundred (100) feet.
6. Lot coverage: main and accessory buildings shall not cover more than twenty-five (25) percent of the lot area.
7. Height: no building shall exceed thirty-five (35) feet in height.

Section 4-2. R-lB Low Density Residential District

The purpose of the R-lB District is to provide for the protection of existing single-family residential areas and the development of additional areas at a low population density served with a public water supply and where a public sewer is available within two thousand (2,000) feet of natural flow. The regulations for this district are designed to stabilize and protect the essential single-family amenities of the district, to promote and encourage a suitable environment for family life and to prohibit all activities of a non-residential nature that do not serve residents of this district.

4-2-1 Permitted Uses

- Any use allowed as a Permitted Use in the R-lA District

4-2-2 Special Exceptions

- Any use allowed as a Special Exception in the R-lA District subject to the same provisions.

4-2-3 Dimensional Requirements

1. Front yard setback: Forty (40) feet (exception, see subsection 5-11-4).
2. Side yard setback: Fifteen (15) feet except on corner lots where the side adjoining the right-of-way shall be thirty (30) feet.
3. Rear yard setback: Forty-five (45) feet. Unattached rear yard accessory buildings shall be set back one (1) foot from the utility easement line.
4. Minimum lot size: Fifteen thousand (15,000) square feet.
5. Width in feet at building line: one hundred (100) feet.
6. Lot coverage: main and accessory buildings shall not cover more than twenty-five (25) percent of the lot area.
7. Height: no building shall exceed thirty-five (35) feet in height.

Section 4-3. R-2 Medium Density Residential District

The purpose of the R-2 District is to provide for the protection of existing single-family residential areas and the development of new areas at densities that assure the continued stability of such areas. This district is established as a district in which the principal use of land is for medium density residential use with both public water and sanitary sewer service provided. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment.

4-3-1 Permitted Uses

- Any use allowed as a Permitted Use in the R-1B District

4-3-2 Special Exceptions

- Day Care Homes, Day Nurseries and Day Care Centers
- Nursing Homes
- Any use allowed as a Special Exception in the R-1B District subject to the same provisions

4-3-3 Dimensional Requirements (Ord. 93-161)

1. Front yard setback:

a. for lots fronting on major or minor arterial streets or collector streets in subdivisions that received final plat approval prior to January 25, 1994: 35 ft.

b. for lots fronting on minor streets in subdivisions that received final plat approval prior to January 25,1994: 30 ft.

c. for lots fronting on collector streets in subdivisions that received final plat approval subsequent to January 25, 1994: 35 ft.

d. for lots fronting on minor streets in subdivisions that receive final plat approval subsequent to January 25, 1994: 25 ft.

e. Section 5-11-4 establishes the formula for determining the front yard setback in certain cases where adjacent or nearby lots are developed, and in case of a conflict between Section 5-11-4 and Section 4-3-3 (1) (a-d), Section 5-11-4 shall control.

2. Side yard setback: Ten (10) feet except on corner lots where the side adjoining the right-of-way shall be twenty-five (25) feet.
3. Rear yard setback: Forty (40) feet. Unattached rear yard accessory buildings shall be set back one (1) foot from the utility easement line.
4. Width in feet at building line: seventy (70) feet.
5. Minimum lot size: Ten thousand five hundred (l0,500) square feet.
6. Lot coverage: Main and accessory buildings shall not cover more than twenty-five (25) percent of the lot area, except that residences that consists only of one story (commonly known as "ranchers"), or consists of two floors, the upper floor of which does not exceed 60% of the area of the lower, may cover 27.5% of the lot area, inclusive of all accessory structures. (Ord. 97-108) (Ord.2001-96, 6-25-01)
7. Height: No building shall exceed thirty-five (35) feet in height.

4-3A RZ Zero Lot Line Residential District (Ord. 2001-22) (Ord. 2002-52)

The purpose of the RZ Zoning District is to provide for zero-lot-line development that maximizes the efficient use of space through compact form and flexibility of design while maintaining density, setback, and lot coverage controls that are compatible with adjacent and nearby development.

4-3A-1 Permitted Uses

- Single family detached "zero-lot-line" dwellings
- Accessory uses and buildings

4-3A-2 Special Exceptions

- None

4-3A-3 Dimensional Requirements

1) Front yard setback: 25 ft.
2) Side yard setback: On one side: one inch. On the opposite side, the side yard requirement shall be 16 ft. Exception: side yards adjacent to a right-of-way shall be at least twenty (20) ft. Minimum building separation shall be 16 ft. and 1 inch.
3) Rear yard setback: Twenty (20) feet. Unattached rear yard accessory buildings shall be set back one (1) foot from the utility easement line.
4) Width in feet at building line: sixty (60) feet.
5) Minimum lot size: Seven thousand five hundred (7,500) sq. ft.
6) Maximum lot coverage:

a) for single story houses (ranchers): 40%.
b) A second story may be constructed that contains not more than 50% of the floor area of the first floor, provided that the subdivision developer donates at least 5% of the gross plat area of the subdivision to the City, the Homeowners' Association, or another entity acceptable to the Planning Commission as open space at the time the final plat is approved. Said open space must be within the plat of the subdivision or within 1000 ft. of the subdivision, provided that the Planning Commission must approve any land dedicated outside the subdivision.

7) Height: No building shall exceed two stories above ground or thirty-five (35) feet in height.
8) Maximum impervious ratio: No more than 60% of the lot shall be covered with impervious surfaces

4-3A-4 Required Conditions

1. Zero-lot-line dwellings shall be constructed against the lot line on one side of the lot, with the exception of corner lots, and no windows, doors, or other openings shall be permitted on that side. Where adjacent zero-lot-line dwellings are not constructed against a common lot line, the developer must provide for a perpetual wall maintenance easement of five (5) ft. in width, and an architectural feature encroachment easement of 18", along the adjacent lot and parallel to such wall.
2. No more than a cumulative total of 5% of the gross area of the City shall be zoned R3, R3A, or RZ. The gross area of the city, for purposes of processing such a rezoning request, shall be its entire gross area, including private and public property and streets on the day the request is received by the Community Development Department.
3. All RZ districts shall be buffered from other zoning districts in accordance with the provisions of Sec. 5-18-5 of this ordinance.
4. RZ zoning districts may only be implemented adjacent to R-2, R-3, R-3A, R-4, B-1, B-2, B-2/S-1, B-3, M-1 and M-2

Section 4-4. R-3 High Density Residential District (revised Ord. 96-02) (Ord. 2001-22)

The purpose of the R-3 District is to provide areas for the development of higher population density single family residences with public water, sanitary sewer, storm drainage and underground utility services provided. Housing shall be protected from the encroachment of uses not performing a function necessary to the residential environment and front yard parking shall be prohibited. Attached and unattached dwellings shall be designed to be in harmony with good land use planning practice. Within a R-3 District as shown on the Official Zoning Map of the City of Madison, the following regulations shall apply:

4-4-1 Permitted Uses

- Single-family attached dwellings

- Any use allowed as a Permitted Use in an R-2 District.
- Swimming pools, recreational and athletic facilities, community buildings and other similar and related facilities for the common use of occupants and their guests.

4-4-2 Special Exceptions

- Any use allowed as a Special Exception in an R-2 District and subject to the same restrictions.

4-4-3 Dimensional Requirements (Ord 2001-62, 5-14-01)

1. Front yard setback: Twenty-five (25) feet on minor streets; 30 ft. on all other streets (exception, see subsection 5-11-4). (Ord. 94-46, 5-24-94) Single family attached housing developments may front on a public right-of-way or on a private access way maintained by an association. When more than two dwellings are to be constructed as contiguous, adjacent dwellings shall have a minimum difference in the set back of not less than four (4) feet so that the development will not present an unbroken line of row houses.

2. Side yard setback: Eight (8) feet, except on corner lots where the side yard adjoining the right-of-way or private access way maintained by an association shall be least twenty-five (25) feet for single-family attached dwellings and at least twenty feet (20) feet for single-family detached dwellings. Side yards are required only at the unattached ends of dwelling units and contiguous dwelling complexes.

3. Rear yard setback: Twenty-five (25) feet. Unattached rear yard accessory buildings shall be set back (1) foot from the utility and/or drainage easement.

4. Minimum lot size: When an R-3 development is intended for subdivision to fee simple parcels the following area standards shall apply: seven thousand five hundred (7,500) square feet for unattached single-family dwellings, nine thousand (9,000) square feet for two single-family attached dwellings and three thousand (3,000) square feet additional area for each additional attached single-family dwelling. Maximum density requirements as provided below shall not be exceeded by the overall development.

5. Clearance between structures: No portion of any attached dwelling complex shall be closer than sixteen (16) feet to any other dwelling complex or detached accessory structure. (Ord. 90-58, eff. 9-13-90)

6. Minimum lot width: Twenty-five (25) feet. When more than two units are contiguous, each single family attached dwelling shall be constructed on its own

parcel. The minimum lot width at the building line for duplex dwellings and unattached single-family dwellings shall be sixty (60) feet.

7. Maximum density: Dwellings shall not exceed an average density of eight (8)dwelling units per acre across the project as a whole and not more than eight (8) single family attached dwellings shall be contiguous.

8. Lot coverage: Single family detached dwellings and accessory buildings shall not cover more than thirty (30) percent of the lot area. Single family attached dwellings and accessory buildings shall not cover more than sixty (60) percent of the lot area.

9. Height: No building shall exceed thirty-five (35) feet in height.

4-4-4 Required Conditions

1. Single-family attached dwellings in the R-3 Zone shall constitute groupings making efficient, compatible, and convenient use of land and open space. Designs shall serve the public purpose by providing alternative arrangements of buildings, yards, and common areas.

2. Privacy: Each attached dwelling shall have not less than three hundred (300) square feet of yard space adjacent to the dwelling and secluded at six (6) feet above ground level from view of neighboring properties or access roads. Said yard space shall be equal in width to the dwelling and shall have a minimum dimension of not less than twelve (12) feet.

3. In the event common areas are provided which are not contained in lots or streets conveyed to individual owners, said common areas shall be maintained by and be the sole responsibility of the developer-owner of the development until such time as the developer-owner conveys such common area to a non-profit corporate owner whose shareholders shall be all of the individual owners of dwellings in the development.

4. A party wall shall separate each single-family attached dwelling unit and shall have a minimum nominal solid wall thickness of six (6) inches, be constructed of non-combustible material and extend six (6) inches, above the roof line.

5. No more than a cumulative total of 5% of the gross area of the City shall be zoned R3, R3A, or RZ. The gross area of the city, for purposes of processing such a rezoning request, shall be its entire gross area, including private and public property and streets on the day the request is received by the Community Development Department.

6. R-3 zoning districts may only be implemented adjacent to R-2, R-3A, RZ, R-4, B-1, B-2, B-2/S-1, B-3, M-1 and M-2

4-4-5 Application Procedures Specific to Developers Where All Owners Share a Common Ownership of the Land Parcel (s).

A general development plan for the proposed project shall be presented to the City of Madison for preliminary and Final review and approval. The general development plan will clearly show the boundaries and dimensions of the land to be occupied by the housing project; the use and ownership of land on adjoining properties and the location and foundation dimensions of all buildings thereon; all existing and proposed public and private rights-of-way and easements within or adjacent to the proposed project; all existing and proposed public utilities and/or facilities servicing the development and adjacent properties; the existing topography and necessary finished site grades with contours spaced at elevations of not greater than two (2) feet; the location and foundation dimensions of all proposed principal buildings and accessory structures; the height and number of above-grade stories of all buildings; private driveways and sidewalks, off-street parking area and the types of paving and surfacing materials to be employed; designation of all common areas and areas of open-space and their proposed use and plans for landscaping and use of vegetation screens; and, other information required for consideration by the Planning Board, including, but not limited to the developer's declaration of covenants, restrictions which will apply to the project, and requirements for membership in any proposed homeowner associations.

Section 4-4-A. R-3A Single-Family Detached Residential District (Ord. 2001-22)

The purpose of the R-3A District is to provide areas for the development of higher population density, single-family detached residences with public water, sanitary sewer, storm drainage, and underground utility services provided. Housing shall be protected from the encroachment of uses not performing a function necessary to the residential environment.

4-4-A-1 Permitted Uses

- Any Use allowed as a Permitted Use in an R-2 District.

4-4-A-2 Special Exceptions

- Any use allowed as a Special Exception in an R-2 District and subject to the same restrictions

4-4-A-3 Dimensional Requirements

1. Front yard setback: 25 ft. on minor streets; 30 ft. on all other streets (exception: see subsection 5-11-4)(Ord. 94-46, 5-27-94)
2. Side yard setback: Eight (8) feet, except on corner lots where the side yard adjoining the right-of-way shall be at least twenty (20) feet.
3. Rear yard setback: Twenty-five (25) feet. Unattached rear yard accessory buildings shall be set back one (1) foot from the utility and/or drainage easement.
4. Minimum lot size: Seven thousand five hundred (7,500) square feet.
5. Minimum lot width at building line: Sixty (60)feet.

6. Lot coverage: Principal and accessory buildings shall not cover more than thirty-three (33) percent of the lot area.
7. Height: No building shall exceed thirty-five (35) feet in height.

4-4-A-4 Required Conditions

1. No more than a cumulative total of 5% of the gross area of the City shall be zoned R3, R3A, or RZ. The gross area of the city, for purposes of processing such a rezoning request, shall be its entire gross area, including private and public property and streets on the day the request is received by the Community Development Department.

2. R-3A zoning districts may only be implemented adjacent to R-2, R-3, RZ, R-4, B-1, B-2, B-2/S-1, B-3, M-1 and M-2

Section 4-5. R-4 Multi-Family Residential District

The purpose of the R-4 District is to provide for multiple-family dwellings, which will: (1) serve as zones of transition between non-residential districts and single family districts and (2) provide areas for medium/high density multiple-family dwellings which will be compatible with adjoining single-family development.

4-5-1 Permitted Uses

- Multiple-Family dwellings including condominiums
- Rooming and Boarding houses
- Any use allowed as a Permitted Use in an R-3 District subject to the same restrictions.

4-5-2 Special Exceptions

- Any use allowed as a Special Exception in an R-3 District and subject to the same restrictions.

4-5-3 Dimensional Requirements

1. Front yard setback: Twenty-five (25) feet on minor streets and thirty-five (35) feet on all other streets except as provided in subsection 5-11-4. Multi-family developments may front on a public street or private access way. Dwelling units shall be set back fifteen (15) feet from project drives and walkways.
2. Side yard setback: Eight (8) feet except on corner lots where the side adjoining the right-of-way shall be a minimum of twenty (20) feet.
3. Rear yard setback: Thirty (30) feet.
4. Minimum lot size: Multi-family developments shall not exceed twelve (12) units per acre. Townhouse developments in an R-4 zone shall not exceed ten (10) units per acre and shall have a minimum lot size of three thousand (3,000) square feet. Single family detached housing is permitted as allowed as provided for in an R-3 District and is subject to the same restrictions.
5. Width in feet at building line: Sixty (60) feet for unattached single-family dwellings, seventy (70) feet for two single-family attached dwellings and ten (10) feet additional width for each additional attached single-family dwelling.

6. Lot coverage: Dwellings and accessory structures shall not cover more than thirty-five (35) percent of the lot area.
7. Height: No building shall exceed thirty-five (35) feet in height.
8. Open Space: Every parcel used for a multifamily structure or structures shall have a minimum of 25% of the total plat area reserved for recreation and open space. (amended Ord. 91-35)

a) Required open space may be used for sidewalks, outdoor recreation facilities, bicycle paths, or jogging trails. Any space not so utilized shall be landscaped in such a manner as to provide for the maximum protection of tree canopy, preservation of desirable on-site vegetation, and preservation of the environmental characteristics of the site in as close to a natural state as possible.

b) Required open space may not be paved, developed or improved, except that bicycle paths, sidewalks, and jogging trails, where provided, shall be paved at a width of four to eight feet. Improved outdoor recreation facilities, such as pools and tennis courts, may also be paved.

c) Ponds, lakes, and creeks may be included in open space calculations, subject to the approval of the Planning Commission. However, a maximum of 30% of the open space requirement may be met in this way.

d) Planter islands, swales, and other parking lot landscaping shall be counted as open space for the purpose of meeting the requirements of this ordinance.

e) Recreational facilities shall be counted as open space, except that no more than 25% of the open space required may be met with recreation facilities.

4-5-4 Required Conditions

1. All Permitted Uses and Special Exceptions with the exception of single-family unattached dwellings and dwelling units comprised of two (2) single-family attached dwellings shall be located only on arterials, major thoroughfares, or collectors as depicted on the City's Land Use Plan. Collectors not depicted on the Land Use Plan but meeting the pavement width requirements of the City's Subdivision Regulations adopted June 6, l979, will be accepted as meeting this requirement.
2. Required Conditions provided as required in R-3 Districts.

Section 4-6. B-l Neighborhood Commercial District (Ord. 96-02) (Ord. 97-50) (Ord. 2000-237)

The purpose of the B-l District is to provide for the most frequent daily needs of residents of an immediate neighborhood. The district is intended to apply to areas where selected establishments may be appropriately located with more restrictive provisions for light, air, and open space. The B-1 District is not intended for use by major or larger scale commercial or service establishments. Orientation to, and compatibility with, adjacent residential neighborhoods to be served is critical.

4-6-1 Permitted Uses

- Retail outlets for the sale or rental of: groceries, general merchandise, wearing apparel, hardware, drugs and sundries, jewelry and gifts, flowers, antiques, books and stationery, sporting goods, cameras and photographic supplies, arts and crafts, pets, videos, furniture, candy and ice cream, and wireless or landline telecommunications equipment sales and/or service, computer equipment sales and/or service, internet providers, broadband or wireless communications services sales and/or service, offices for short term rental and business incubators (provided no onsite manufacturing is undertaken). Each individual use shall be limited to five thousand (5,000) square feet of floor area. Service establishments including: dry cleaning and laundry pick-up station, self-servicing laundries, barber or beauty shop, appliance repair, small engine repair, shoe repair shop, photographic studio, tailor, dressmaking and millinery shop. Each individual use shall be limited to two thousand five hundred (2,500) square feet of floor area.
- Professional services including: medical clinics (out patient only) and offices of doctors, dentists, osteopaths, and similar or allied professions. Each individual use shall be limited to two thousand five hundred (2,500) square feet of floor area.
- Private schools for individualized training in dance, martial arts, musical instruments, language, business, computers, and similar types of training, provided no individual use may exceed 3000 square ft.
- Business establishments which perform services on the premises including: banks, loan companies, insurance offices, real estate offices, travel agencies, and child care centers. Each individual use shall be limited to 2500 sq. ft.
- Post office, library, fire station and similar governmental office buildings serving persons living in the adjacent residential area
- Planned neighborhood shopping center not exceeding thirty thousand (30,000) square feet of floor area.
- Signs subject to the provisions of Article VII.
- Churches
- Essential services including and limited to water, sewer, gas, telephone, and electrical systems, including sub-stations, lift stations, and similar sub-installations necessary for the performance of these services.
- Each use permitted in this district shall be permitted to have any necessary onsite accessory uses, such as antennas, satellite dishes, etc. not specifically prohibited by any other city ordinance. Antennas regulated under Sections 5-13A and 5-13B of this ordinance shall not be permitted as accessory uses in any business district.

4-6-2 Special Exceptions

- Service stations
- Restaurants
- Funeral homes

4-6-3 Dimensional Requirements

1. Front yard setback: Forty (40) feet (exception, see subsection 5-11-4).

2. Side yard setback: None required, except on the side of lot adjoining a residential or agricultural district, in which case, there shall be provided a side yard of not less than fifteen (15) feet.

3. Rear yard setback: Shall not be required except where a rear lot line adjoins a residential or agricultural district and/or the commercial building is designed to be serviced from the rear, there shall be provided a rear yard of not less than twenty (20) feet for lots without alleys and thirty (30) feet for lots with alleys.

4. Minimum lot size: Forty thousand (40,000) square feet.

5. Lot coverage: Main and accessory buildings shall not cover more than fifty (50) percent of the lot area.

6. Height: No building shall exceed thirty-five (35) feet in height.

4-6-4 Required Conditions

1. Permitted Uses and Special Exceptions shall be located only on arterials and major thoroughfares as depicted on the City's Land Use Plan.

2. All uses shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.

3. All businesses shall be conducted within an enclosed building.

4. Ingress and egress shall be a minimum of sixty (60) feet from the intersection of any two (2) streets.

Section 4-7. B-2 Community Commercial District (Ord. 96-02)(Ord. 96-06) (Ord. 97-50)

The purpose of the B-2 District is to provide for the needs of a larger consumer population than is served by the B-1 Neighborhood Commercial District. The B-2 District is characterized by large volumes of vehicular and/or pedestrian traffic and as such, should be properly located with respect to existing development and thoroughfares.

4-7-1 Permitted Uses

- Any use allowed as a Permitted Use in the B-1 District
- Any retail business whose principal activity is the sale of merchandise in an enclosed building
- Restaurants excluding drive-in facilities

- Service Stations
- Offices, business or professional
- Funeral homes
- Theaters, assembly halls or similar places of assembly when conducted within an enclosed building
- Any service establishment of an office, showroom, or workshop nature of an electrician, decorator, dressmaker, tailor, baker, painter, upholsterer; or an establishment doing radio or home appliance repair; and similar service establishments
- Private clubs, fraternal organizations and lodge halls
- Assisted Living Facilities

4-7-2 Special Exceptions

- Open air businesses such as retail sales of plant material not grown on the site, and sales of lawn furniture, playground equipment and garden supplies
- Bowling alleys and similar forms of indoor commercial recreation
- Self Service car washes, either wand-operated or mechanical, but not including car washes where vehicle being washed is propelled along a track.(Ord.92-5)

4-7-3 Dimensional Requirements

1. Front yard setback: Eighty (80) feet, provided further that the first twenty (20) feet shall be maintained as a landscaped yard and no parking shall be permitted therein.
2. Side yard setback: Fifteen (15) feet, except on the side of a lot adjoining a street line, or a residential or agricultural district, in which case, there shall be provided a side yard of not less than twenty-five (25) feet.
3. Rear yard setback: Twenty feet, except where a rear lot line abuts a street line, or adjoins a residential or agricultural district, in which case there shall be provided a rear yard of not less thirty (30) feet.
4. Minimum lot size: Forty thousand (40,000) square feet.
5. Lot coverage: Main and accessory buildings shall not cover more than fifty (50) percent of the lot area.
6. Height: No building shall exceed thirty-five (35) feet in height.
7. Open Space: A minimum of 15% of the gross plat area shall be preserved as open space.
    a) Required open space may be used for sidewalks, outdoor recreation facilities, bicycle paths, or jogging trails. Any space not so utilized shall be landscaped in such a manner as to provide for the maximum protection of tree canopy, preservation of desirable on-site vegetation, and preservation of the environmental characteristics of the site in as close to a natural state as possible.

b) Required open space may not be paved, developed or improved, except that bicycle paths, sidewalks, and jogging trails, where provided, shall be paved at a width of four to eight feet.
c) Ponds, lakes, and creeks may be included in open space calculations, subject to the approval of the Planning Commission. However, a maximum of 30% of the open space requirement may be met in this way.
d) Yards, setback areas, planter islands, swales, and other parking lot landscaping shall be counted as open space for the purpose of meeting the requirements of this ordinance.
e) Recreational facilities shall not be counted as open space in the B-2 District.

4-7-4 Required Conditions (Ord. 99-79, 7-26-99)

1. Permitted Uses and Special Exceptions shall be located only on arterials and major thoroughfares as depicted on the City's Land Use Plan.
2. All uses shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where purchased.
3. All business shall be conducted within an enclosed building with the exception of open air business as specified under subsection 4-7-2.
4. Ingress and egress shall be a minimum of sixty (60) feet from the intersection of any two (2) streets.
5. A. The height of any materials stored or displayed in a frond yard, or in any required parking and vehicular use area between the street line and the building shall not exceed the following:

   1. within 20 ft. of the street: not allowed
   2. between 20 ft. from the street line and the building wall: 5 ft. plus 1 ft. for every 10 ft. in excess of 50 ft. (Example: item is placed 75 ft. from street, Allowable height is 5 ft. + (75-50)/10 = 7.5 ft.)
   3. in no case more than 25 ft.

   B. Such outside display or storage may not exceed 20% of the parking and vehicular use area.
   C. Such outside display or storage may not adversely affect traffic visibility, traffic safety or circulation.
   D. All materials stored or displayed outside must form a single contiguous area, and only one such area shall be allowed on any one lot, provided that access drives and loading areas within such an area shall not interrupt contiguity.
   E. On-site outside storage or display by a building owner or long-term tenant may continue for no more than six months in any 12-month period, provided that the Director of Community Development may grant one 90-day extension in any such 12-month period.
   F. Transient merchants may store and display merchandise at any particular location for no more than 3 months in any calendar year, but not more than 14 continuous calendar days. No extension to this time limit is permitted.

Section 4-7-5. Standards for Car Washes as Special Exception Uses in the B-2 District

1. All requirements of Sections 4-7-3 and 4-7-4 shall be met by any car wash.
2. No car wash may open for business before 6:00 AM, nor close later that 11:00 PM.

3. Up to one service bay for the changing of motor oil, transmission oil, filters, coolant, other fluids, and lubrication shall be permitted as an accessory use. This bay shall be part of the principal building.
4. Holding tanks for recycling spent motor oil shall be buried underground, unless prohibited by State law.
5. No accessory buildings shall be allowed, except for dumpster enclosures
6. No noise, water spray, or other effects of the car wash shall extend beyond the property line.
7. All water generated by the car wash shall be recycled. (Ord. 92-5)

Section 4-7-A. B-2/S-1 Community Commercial Special District 1.
(Created Ord. 91-118; Amended Ord. 93-157; Amended Ord. 95-163, 96-02)

4-7-A-1. Permitted Uses

Commercial Subdivisions, which are platted pursuant to the City's adopted subdivision regulations and contain lots which are sold fee-simple to the public. Commercial Subdivisions shall provide the City with copies of covenants which provide for overall
management or association of property owners and make provision for the maintenance of common areas.

Individual lots in B-2/S-1 Commercial Subdivisions may contain the following uses:

- Business establishments which perform services on the premises including: banks, loan companies, insurance offices, real estate offices, travel agencies, and child care centers. Each individual use shall be limited to five thousand (5,000) square feet of floor area.

- Post office, library, fire station and similar governmental offices

- Signs subject to the provisions of Article VII.

- Churches

- professional offices of a doctor, attorney, engineer, architect, insurance professional, investment broker, dentist, planner,economist, marketing researcher, travel agent, or other similar profession.

4-7-A-2. Special Exceptions

Individual lots in B-2/S-1 commercial subdivisions may be granted special exception permits for the following uses:

- Retail outlets for the sale of: wearing apparel, drugs and sundries, jewelry and gifts, flowers, antiques, books and stationery, cameras and photographic supplies, arts and crafts, candy and ice cream, and medical and surgical supplies. Each individual use shall be limited to five thousand (5,000) square feet of floor area.

- outpatient medical clinics and ambulatory surgical centers

- Service establishments including: dry cleaning and laundry pick-up station, barber or beauty shop, shoe repair shop, photographic studio, tailor, dressmaking and millinery shop. Each individual use shall be limited to two thousand five hundred (2,500) square feet of floor area.

- restaurants, excluding drive-in or drive-thru facilities

- essential services, such as, but not limited to telephone, gas, water, electric, cable, and sanitary sewer, except that gas, water, electric, cable, telephone and sewer lines installed to serve the development shall not require special exception permits.

Provided that the hereinabove enumerated uses may not be permitted as special exception uses when located contiguous to any residential district.

4-7-A-3. Dimensional Requirements

- front yard setback: 50', the 20' closest to the road to be a landscaped buffer

- side yard setback: 10'

- rear yard setback: 10', which is to contain a paved alley

- minimum lot size: 25,000 ft..

- maximum building coverage of the lot shall not exceed 21%

- maximum floor area ratio: the ratio of floor area to lot area shall not exceed 35%

- maximum building height: 35 ft.

4-7-A-4. Required Conditions

- All required conditions for the B-2 district

- minimum subdivision size: 75,000 ft., with at least three contiguous subdivision lots of at least 25,000 sq. ft. each. All lots within the subdivision may be platted after the subdivision is zoned B-2/S-1,but all lots must be platted before any building permit is issued for any lot in the subdivision.

- all lots shall front on a public street

- common areas may be provided but must be maintained by an association of owners or the developer. Common areas must not be included in individual lots and may not count toward meeting minimum lot size.

- all new buildings or structures requiring building permits shall be required to obtain site plan approval from the Planning Commission. All site plans shall include a landscape plan which shall be reviewed as part of the site plan, and the site plan certificate, if issued, shall bind the developer or contractor to the specifications presented therein to the Planning Commission.

- all dumpsters shall be enclosed on all four sides in order to conceal them from public view and minimize the impact of scavengers and rodents.

- no accessory structures, except for dumpster enclosures, shall be permitted.

- no outdoor sales, including the sale of gasoline, diesel, or propane, shall be permitted. No outside vending machines shall be permitted.

- all lots shall be subdivided pursuant to the City's subdivision regulations.

- no more than one building per lot of record.

- 25% of the lot area shall be landscaped.

- outdoor high-intensity security lighting is prohibited. Any outdoor lighting not substantially similar in intensity to that in adjacent residential areas, if any, is not permitted.

- landscaped buffer shall be provided as required in Section 5-18 of the Zoning Ordinance, except that in the B-2/S-1 District, the zone of 80% opacity of this buffer shall extend from 2 ft. above grade to 8 ft. above grade

Section 4-8. B-3 General Business District (Ord. 96-02) (Ord. 96-06) (Ord. 96-139) (Ord. 97-50)

The purpose of the B-3 District is to provide sites for more diversified business types which are often located to serve passer-by traffic and require outdoor sales and storage.

4-8-1 Permitted Uses

- Any use allowed as a Permitted Use in the B-2 District
- New and used car salesroom, showroom, or offices including leasing
- Mobile home sales lot
- Recreational vehicle sales lot
- Motels and hotels
- Beverage stores
- Open air businesses including retail sales of plant materials, lawn furniture, playground equipment and garden supplies
- Bowling alleys and similar forms of indoor commercial recreation
- Drive-in restaurants
- Business college or business schools
- Self-Service Storage facilities as a minor accessory use to the principal uses permitted herein
- Assisted Living Facilities

4-8-2 Special Exceptions

- Automatic car wash
- Automobile repair service
- Retail outlets for building materials provided no manufacturing or fabricating is conducted on the premises
- Bus passenger stations
- Hospitals
- Outdoor commercial recreation
- Veterinary hospitals or clinics
- Self-Service Storage Facilities serving principally noncommercial users, with the largest contiguous rentable space to be not more than 4000 cu.ft., nor the maximum contiguous rentable floor space more than 500sq. ft.
- Any structure with height exceeding 35 ft.

4-8-3 Dimensional Requirements

Dimensional requirements shall be the same as those in the B-2 District, except as specified in Section 4-8-5 below.

4-8-4 Required Conditions (Ord. 99-79, 7-26-99)

1. Permitted Uses and Special Exceptions shall be located only on arterials and major thoroughfares as depicted on the City's Land Use Plan or have access through areas not zoned for residential or agricultural purposes.
2. All lighting shall be shielded from adjacent residential districts.
3. Ingress and egress shall be a minimum of sixty (60) feet from the intersection of any two (2) streets.
4. No hazardous materials (as defined by the Alabama Department of Environmental Management) shall be produced, stored, used, or disposed of in any self-service storage facility in this district. (amended Ord. 93-18)
5. No Special Exception permit authorizing the construction of any structure with height exceeding 35 ft. shall be granted, unless the parcel on which the structure is to be placed is entirely within 0.5 miles of the centerline of I-565
6. A. The height of any materials stored or displayed in a frond yard, or in any required parking and vehicular use area between the street line and the building shall not exceed the following:

    1. within 20 ft. of the street: not allowed
    2. between 20 ft. from the street line and the building wall: 5 ft. plus 1 ft. for every 10 ft. in excess of 50 ft. (Example: item is placed 75 ft. from street, Allowable height is 5 ft. + (75-50)/10 = 7.5 ft.)
    3. in no case more than 25 ft.

    B. Such outside display or storage may not exceed 20% of the parking and vehicular use area.
    C. Such outside display or storage may not adversely affect traffic visibility, traffic safety or circulation.
    D. All materials stored or displayed outside must form a single contiguous area, and only one such area shall be allowed on any one lot, provided that access drives and loading areas within such an area shall not interrupt contiguity.

E. On-site outside storage or display by a building owner or long-term tenant may continue for no more than six months in any 12-month period, provided that the Director of Community Development may grant one 90-day extension in any such 12-month period.
F. Transient merchants may store and display merchandise at any particular location for no more than 3 months in any calendar year, but not more than 14 continuous calendar days. No extension to this time limit is permitted.

4-8-5 Standards for Approval of Special Exception Permits to authorize the construction of structures in excess of 35 ft. in height.

In addition to the provisions of Section 10-8 (6)(a - h), the Zoning Board of Adjustment shall observe the following restrictions in deciding Special Exception Permits in the B-3 District which authorize the construction of structures in excess of 35 ft. in height:

- For every structure with height in excess of 35 ft., the required side yard shall be 30 ft., plus 1 ft. for every ft. in building height in excess of 35 ft
- For every structure with height in excess of 35 ft., the required rear yard shall be 15 ft., plus 1 ft. for every ft. in building height in excess of 35 ft
- Required rear and side yards shall be increased by 15 ft. along any side lot line adjoining a right-of-way or a residential district
- In no case shall maximum building height exceed 60 ft.

Section 4-9. M-1 Restricted Industrial District (Ord. 96-02) (Ord. 97-50) (Ord. 2002-65)

The M-1 District is intended to provide an environment exclusively for, and conducive to, the development and protection of office buildings, research facilities, specialized manufacturing plants, wholesale and warehouse activities that are conducted so the noise, odor, smoke, dust, vibration, heat, and glare of each operation is completely confined within an enclosed building. It is the intent of this District that the processing of raw materials for shipment in bulk form, to be used in an industrial operation at another location shall not be permitted.

4-9-1 Permitted Uses

- Wholesaling, warehousing, storage or distribution establishments
- Printing, publishing or similar establishments
- Research and development facilities provided no hazardous material is used
- Light manufacturing including assembly, compounding, processing, packaging or treatment of finished or semi-finished products from previously prepared material
- Service establishments catering to commerce and industry including linen supply, freight movers, services, business machine services, canteen service, restaurant (including drive-in restaurant), union halls and employment agencies and centers
- Radio and television stations and transmitters
- Office buildings

- Public utility structures, including electrical substations, gas metering stations, water tanks, sewage pumping stations, fire stations and other necessary public facilities
- Essential services including and limited to water, sewer, gas, telephone, and electrical systems, including substations, lift stations, and similar sub-installations necessary for the performance of these services
- Motels and hotels
- Sexually oriented businesses
- Signs subject to the provisions of Article VII
- Customary accessory uses and structures

4-9-2 Special Exceptions

- Sewage Disposal Plant
- Motorized vehicle service, mechanical or body repair
- Outdoor commercial recreation
- hospitals and veterinary hospitals
- bus passenger depots

4-9-3 Dimensional Requirements

1. In no instance shall a structure, parking lot, or any other accessory use, other than a landscaped yard, be located closer than fifty (50) feet to any residential or agricultural district.
2. All buildings shall be set back from the front yard fifty (50) feet and the side and rear lot lines a distance of not less than twenty (20) feet except as provided in subsections 4-9-3 (1) and 5-11-4.
3. All yards adjacent to a street which are created by the setback requirements contained herein shall be maintained as open landscaped yards bisected only by access drives, and their use for any other purpose including offstreet parking, is specifically prohibited.
4. Each individual use shall be located on a lot having not less than forty thousand (40,000) square feet in area.
5. Lot Coverage:
   (a) Main and accessory buildings shall not cover more than fifty (50) percent of the lot area.
   (b) The coverage of main and accessory buildings plus the area used or designed for use by parking and loading facilities, shall not exceed eighty (80) percent of the lot area. Not less than twenty (20) percent of the lot area shall be maintained as an open landscaped yard.
6. Maximum height: thirty-five (35) feet.

4-9-4 Required Conditions

1. All uses specified in subsections 4-9-1 and 4-9-2 shall be conducted wholly within an enclosed building, except for parking, loading and unloading facilities.
2. Any part of a lot not used for buildings or other structures, or offstreet parking, loading and maneuvering areas, drives and pedestrian walks, shall be planted with appropriate ground cover, trees, flowers, shrubs, and grass lawns, all of which shall be properly maintained in a healthy condition at all times.

3. All required buffering whether planted or architectural, shall be properly maintained. Dead plant materials shall be removed within a reasonable time and replaced during the normal planting season.
4. No outside storage shall be permitted which is visible from any street or residential lot.
5. Any lighting including any permitted illuminated sign, shall be arranged so that there will be no annoying glare directed or reflected toward residential buildings in a residential district.
6. All of the uses permitted under this Section shall have their primary operations conducted entirely within enclosed buildings, and shall not emit glare, dust, smoke, or noxious odor or fumes outside of the building housing the operation, or produce a noise level or vibration at the property line that is greater than the average noise or vibration level occurring on the adjacent lot.
7. Special conditions related to sexually oriented businesses.
   a. no sexually oriented business shall be located within 1000 ft. (measured as the longer of (a) the shortest distance from lot line – to – lot line along public rights-of-way AND (b) radially, i.e., within a 1000 radius) of any residence, nursing home, assisted living facility, mobile home park, park, playground, golf course, country club, church, synagogue, mosque or other house of worship, day care facility, family day care facility, group home, library, museum, school (public or private), outdoor recreation facility, property owned by the Madison City School Board or another sexually oriented business
   b. no sexually oriented business shall be located along an arterial or collector road, as depicted in the City's Comprehensive Plan, within 1000 ft. of the City limits (measured radially), as said limits exist on the date of application for zoning approval for such a business
   c. all sexually oriented businesses must post their valid Business Privilege License and Zoning Permit in a conspicuous public area inside the building
   d. a manager must be present at all times while the business is open
   e. the business shall post and enforce a "no loitering" policy, and require that individuals not transacting business leave the premises
   f. the business shall not permit individuals under 21 years of age to enter the premises or transact business
   g. it shall be the duty of the manager to report any illegal activities on the premises to local law enforcement authorities
   h. this ordinance shall not be construed to permit activities prohibited by law, including Public Indecency (Sec. 14-4, *et.seq*., Code of Ordinances) Prostitution (Sec. 14-30, *et.seq*., Code of Ordinances, and Title 13A, Article 3, Code of Alabama), or Obscenity (Title 13A, Article 4, Code of Alabama).

Section 4-10 M-2 General Industrial District (Ord. 96-02) (Ord. 97-50) (Ord 2000-237) (Ord. **2002-65)**

The purpose of the M-2 District is to provide areas within the City where the principal use of the land is for industrial activities that by their nature may create some nuisance.

4-10-1 Permitted Uses

- Any use allowed as a Permitted Use in the M-1 District
- Manufacturing, assembly, fabricating, compounding, processing, packaging or treatment of finished or semi-finished products
- Concrete or cement product manufacture
- Asphalt manufacture or refining
- Automobile repair shops
- Wholesaling, warehousing, storage, or distribution establishments
- Building materials sales yard
- Contractor's equipment storage yard
- Truck and farm implement sales and service
- Sexually Oriented businesses

4-10-2 Special Exceptions

- Quarry or sand and gravel operation provided the use does not adjoin any residential district
- Volatile uses and volatile industries provided that such use or industry shall not be located closer than one thousand (l,000) feet to any residential district
- Junk or salvage yard of any kind provided that any article or material stored permanently or temporarily outside of an enclosed building shall be so screened by ornamental walls, fences and/or evergreen plantings that it cannot be seen from public streets or adjoining lots when viewed by a person standing at ground level
- Sewage Disposal Plant
- Recycling facilities
- Composting facilities
- Solid Waste Transfer Stations

4-10-3 Dimensional Requirements

1. In no instance shall a structure, parking lot, or any other accessory use, other than a landscaped yard, be located closer than fifty (50) feet to any residential or agricultural district.
2. Front yard setback: Twenty-five (25) feet (exception, see subsection 5-11-4.)
3. Side yard setback: ten (10) feet.
4. Rear yard setback: Twenty-five (25) feet except where it is necessary to set back for the purpose of rail service in which case, the rear yard setback shall be no less than five (5) feet.
5. All yards adjacent to a street which are created by the setback requirements contained herein shall be maintained as open landscaped yards bisected only be access drives, and their use for any other purpose including offstreet parking, is specifically prohibited. Each individual use

shall be located on a lot having not less than twenty thousand (20,000) square feet in area.

6. Lot coverage: Main and accessory buildings shall not cover more than fifty (50) percent of the lot area. No building shall exceed forty-five (45) feet in height. Not less than 20% of the gross plat area shall be maintained as an open landscaped yard.

4-10-4 Required Conditions

1. All required buffers, whether planted or architectural, shall be properly maintained. Dead plant materials shall be removed within a reasonable time and replaced during the normal planting season.
2. No outside storage shall be permitted which is visible from any residential lot.
3. Special conditions related to sexually oriented businesses.
   a. no sexually oriented business shall be located within 1000 ft. (measured as the longer of (a) the shortest distance from lot line – to – lot line along public rights-of-way AND (b) radially, i.e., within a 1000 ft. radius) of any residence, nursing home, assisted living facility, mobile home park, park, playground, golf course, country club, church, synagogue, mosque or other house of worship, day care facility, family day care facility, group home, library, museum, school (public or private), outdoor recreation facility, property owned by the Madison City School Board or another sexually oriented business
   b. no sexually oriented business shall be located along an arterial or collector road, as depicted in the City's Comprehensive Plan, within 1000 ft. of the City limits, as said limits exist on the date of application for zoning approval for such a business
   c. all sexually oriented businesses must post their valid Business Privilege License and Zoning Permit in a conspicuous public area inside the building
   d. a manager must be present at all times while the business is open
   e. the business shall post and enforce a "no loitering" policy, and require that individuals not transacting business leave the premises
   f. the business shall not permit individuals under 21 years of age to enter the premises or transact business
   g. it shall be the duty of the manager to report any illegal activities on the premises to local law enforcement authorities
   h. this ordinance shall not be construed to permit activities prohibited by law, including Public Indecency (Sec. 14-4, *et.seq*., Code of Ordinances) Prostitution (Sec. 14-30, *et.seq*., Code of Ordinances, and Title 13A, Article 3, Code of Alabama), or Obscenity (Title 13A, Article 4, Code of Alabama).

Section 4-11. AG Agricultural District (Ord. 96-06) (Ord. 97-50)

The purpose of the AG District is to provide a zoning classification for land which is not expected to experience urbanization in the immediate future. The types of uses, area and intensity of use of land which is authorized in this district is designed to encourage and protect agricultural uses until urbanization is warranted.

4-11-1 Permitted Uses

- Any use allowed as a Permitted Use in the R-lA District
- Churches and cemeteries
- Agricultural uses including the raising of crops, livestock and poultry
- Plant nursery
- Sanatoriums, convalescent and nursing homes
- Parks, playgrounds, golf courses and country clubs
- Assisted Living Facilities
- minor home occupations

4-11-2 Special Exceptions

- Fire Stations
- Major Home Occupations
- Group Care Facility
- Animal hospitals and kennels
- Mobile home park subject to the provisions of Article VI
- Hospitals

4-11-3 Dimensional Requirements

1. Front yard setback: forty (40) feet (exception, see subsection 5-11-4).
2. Side yard setback: fifteen (15) feet except on corner lots where the side adjoining the right-of-way shall be thirty (30) feet.
3. Rear yard setback: forty-five (45) feet. Unattached rear yard accessory buildings shall be set back one (1) foot from the utility easement line.
4. Minimum lot size: three (3) acres.
5. Width in feet at building line: one hundred fifty (150) feet.
6. Lot coverage: main and accessory buildings shall not cover more than twenty-five (25) percent of the lot area.
7. Height: No building shall exceed thirty-five (35) feet in height except farm related structures not intended for human occupancy.

Planned Unit Development Districts (repealed all provisions Ord.97-05)

4-12A Cluster Zoning Districts

4-12A-1 Residential Cluster District Number 1 (RC-1) (Ord. 00-05, 2/14/00)

The purpose of this district is to maintain the rural, environmental, and scenic qualities of the City of Madison, Alabama, by preserving wetlands and other low-lying and significant open

lands and hillsides while allowing landowners a reasonable return on their holdings. This district is intended to permit creative development alternatives that have the effect of leaving significant open areas adjacent to and/or within clustered housing developments. Minimum open space set asides are at least 20 percent of the gross plat area.

(A) Uses of Land

(1) Permitted Uses

- all uses permitted in the R-1 and R-1A zoning districts

(2) Special Exceptions

- all Special Exceptions enumerated for the R-1A zoning district

(B) Dimensional Requirements

The minimum lot size and all front, side, and rear yard setbacks may be reduced from the requirements for the R-1A district in proportion to the amount of the gross plat area set aside as protected open space. Example: A 40 percent set aside yields a 10,800 s.f. minimum lot size and a 24 ft. front yard setback. A 20 percent set aside yields a 14,400 s.f. minimum lot size and a 32 ft. front yard setback. In no event, however, shall dimensional requirements be reduced more than 40 percent from those specified for the R-1A district. Other dimensional requirements are as noted below:

1. Front yard setback: As above, provided that structures in the RC-1 district may not front on major streets in the City's Transportation Plan.

2. Side yard setback: As above, provided that on corner lots the side yard adjoining the right-of-way shall be at least twenty (20) feet.

3. Rear yard setback: As above, provided that unattached rear yard accessory buildings shall be set back one (1) foot from the utility easement line.

4. Minimum width in feet at building line: sixty (60) feet.

5. Lot coverage: main and accessory buildings shall not cover more than thirty-five (35) percent of the lot area.

6. Height: no building shall exceed thirty-five (35) feet in height.

4-12A-2 Residential Cluster District Number 2 (RC-2)

The purpose of this district is to maintain the rural, environmental, and scenic qualities of the City of Madison, Alabama, by preserving wetlands and other low-lying and significant open

lands and hillsides while allowing landowners a reasonable return on their holdings. This district is intended to permit creative development alternatives that have the effect of leaving significant open areas adjacent to and/or within clustered housing developments. Minimum open space set asides are at least 20 percent of the gross plat area. The difference between this district and the RC-1 district is that the RC-2 district allows for higher density and shorter setbacks than the RC-1 district.

(A) Uses of Land

(1) Permitted Uses

- all uses permitted in the R-1 and R-1A zoning districts

(2) Special Exceptions

- all Special Exceptions enumerated for the R-1A zoning district

(B) Dimensional Requirements

The minimum lot size and all front, side, and rear yard setbacks may be reduced from the requirements for the R-2 district, proportionate to the amount of the gross plat area set aside as protected open space. Example: A 40 percent set aside yields a 6,300 s.f. minimum lot size and a 15 ft. front yard setback on minor streets. A 20 percent set aside yields a 8,400 s.f. minimum lot size and a 20 ft. front yard setback. In no event, however, shall dimensional requirements be reduced more than 40 percent from those specified for the R-2 district. Other dimensional requirements are as noted below:

1. Front yard setback: As above, provided that structures in the RC-2 district may not front on major streets in the City's Transportation Plan.

2. Side yard setback: As above, provided that the minimum side yard setback shall be eight (8) feet, and further provided that on corner lots the side yard adjoining the right-of-way shall be at least twenty (20) feet.

3. Rear yard setback: As above, provided that unattached rear yard accessory buildings shall be set back one (1) foot from the utility easement line.

4. Minimum width in feet at building line: sixty (60) feet.

5. Lot coverage: main and accessory buildings shall not cover more than thirty-five (35) percent of the lot area.

6. Height: no building shall exceed thirty-five (35) feet in height.

4-12A-3 Submittal of the Application for RC Zoning

(A) Special Procedures for Application for RC-1 and RC-2 Zoning

(1) Data Requirements

Applicants for RC-1 or RC-2 zoning shall file with the City Clerk one (1) copy, and with the Planning Commission twelve (12) copies, of the following documents:

(a) A Development Plan conforming to the requirements for a preliminary subdivision plat under the Planning Board's Subdivision Rules and Regulations, or a site plan conforming the substantive and procedural regulations found in the Zoning Ordinance therefore, as appropriate. The development plan shall contain sufficient information for the Planning Commission and its staff to determine whether the proposed development conforms to the requirements of Section 4-12A-1 or 4-12A-2 (as appropriate), as well as 4-12A-3 of this ordinance.

(b) Except where cropland is the only area to become residual land, an Environmental Analysis which shall contain, at a minimum,

- a description of the land, including topography, soils, slopes, wetlands, rock, etc.
- preservation plan for all undeveloped residual land
- a wetlands mitigation and/or management plan, if applicable, approved by the appropriate Federal Authority
- the information developed should be sufficient to support the site plan; that is, to justify where developed areas and undeveloped areas are to be located.

(c) An erosion/sedimentation control plan providing for the permanent control of erosion and sedimentation within the site and from the site onto adjacent properties.

(2) Minimum Criteria

Applications for RC-1 and RC-2 zoning shall, at a minimum, meet all of the following criteria:

a) The Development Plan shall demonstrate that, where applicable, the proposed development meets all of the requirements of the Planning Board's Subdivision Rules and Regulations and the Zoning Ordinance.

b) The minimum area of land for RC-1 and RC-2 district development shall be ten (10) acres. The maximum total number of dwelling units shall be determined by calculating the number of units allowed by right according to the following density table:

RC-1 Low Density Residential Cluster District: (2.42 du/acre)
RC-2 Medium Density Residential Cluster District: (4.14 du/acre)

(c) The total area of residual farmland or open space within the development shall be at least twenty (20) percent of the total area of land in the proposed development.

(d) All residual land, which is to be used only for recreational, conservation, or agricultural purposes (excluding cultivation of row crops such as corn and cotton), shall be:

a. Owned jointly or in common by the owners of the building lots with easement rights granted to the City, or

b. Owned by the City, subject to acceptance, or

c. Owned by a non-profit entity acceptable to the City, such as a land preservation trust, or

d. Owned privately (in the case of cropland only).

e. Further subdivision of residual land, or its use for other than agriculture (excluding row crops), non-commercial recreation, or conservation (except for easements for underground utilities), shall be prohibited. Structures and buildings accessory to non-commercial recreation, conservation, or agriculture may be erected on residual land, subject to the Site Plan Review section of this Zoning Ordinance. These restrictions shall be recorded in a Conservation Easement for the benefit of the City, such easement deed to be received prior to the granting of Final Plat (in the case of subdivisions) or Certificates of Occupancy (in the case of site plans) for the project.

f. Where applicable, a homeowners' association shall be established for the purpose of permanently maintaining all residual open space and recreational facilities. Such homeowners' association agreements, guaranteeing continuing maintenance, and giving lien to the City in the event of lack of such maintenance, shall be submitted to the City Council for approval prior to the issuance of Final Plat.

(3) Design Guidelines.

The proposed development shall meet the following applicable design guidelines:

(a) Dwelling units shall be grouped so that, on average, they consume no more than 13,500 sq. ft. of land per lot, excluding roads.

(b) Lots facing onto a previously existing public road shall not be permitted.

(c) Lots not served by City sewer shall contain not less than 30,000 sq. ft., and shall have road frontage of not less than fifty (50) feet where such frontage is on a way created by the subdivision involved. Such lots will be excluded from overall density calculations.

(d) Distance between dwellings shall not be less than sixteen (16) feet.

(e) Buffer zones at least fifty (50) feet in width shall be required between residential and agricultural uses, and shall, at the discretion of the Planning Commission, be thickly planted with fast-growing native shrubs and trees (such as viburnum, elderberry, winterberry, wild rose, hawthorne birch, poplar, shadbush, maple, white cedar, etc.) to create an effective barrier separating yards from fields and pastures.

(f) At the discretion of the Planning Commission, variances from the curb-and-gutter requirements and/or street width requirements, and lot dimensional requirements, as enumerated in the Subdivision Regulations, may be granted provided said variances are needed to accomplish an overall themed design for the subdivision.

(B) Action on the Application

(1) Recommendation of the Planning Commission

a. The Planning Commission staff shall prepare a report addressing the requirements in Section 4-12A-3 (A)(1) (a-c), 4-12A-3 (A)(2)(a-f), and 4-12A-3(A)(3)(a-f), and making proposed findings concerning the compliance of the proposed development with these requirements.

b. The Planning Commission shall, at its discretion, hold a public hearing on the zoning petition in accordance with Section 11-3-1 of the zoning ordinance.

c. The Planning Commission shall spread upon its minutes a finding that the requirements for RC-1 or RC-2 zoning, as appropriate, are (or are not) met by the proposed development, and shall report these findings, along with its recommendation, to the City Council concerning the zoning petition.

(2) Application to the City Council

a. Within ten (10) days after the Planning Commission has issued its findings and recommendations, the petitioner shall submit to the City Council ten (10) copies of the proposed plat of the development, provided such submittal is made on or before the deadline for the Council agenda on which the petition is to be considered.

b. The Community Development Department shall forward the Planning Commission's findings and recommendation to the City Council for inclusion on the agenda on which the rezoning petition has been scheduled.

c. The Council shall advertise and hold a Public Hearing on the petition in accordance with Section 11-4 of the zoning ordinance and all other applicable laws and regulations. Final disposition of the petition shall be by majority vote of Council, subject to mayoral veto and override of veto in accordance with all local and state laws.

(3) Submission of the Subdivision Plat

a. After RC-1 or RC-2 zoning has been granted, the landowner/developer may design and submit to the Planning Commission a preliminary subdivision plat conforming to the density, setback and other requirements enumerated in Section 4-12A-1 or 4-12A-2 of this Ordinance, as appropriate. This plat, all amendments thereto, and the final plat shall be disposed of in accordance with all applicable subdivision and zoning regulations.

4-13 Flood Damage Prevention. (ord. 98-95)

4-13- 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Alabama has in Title 11, Chapter 19, Sections 1-24, Chapter 52, Sections 1-84, and Title 41, Chapter 9, Section 166 of the Code of Alabama, 1975, authorized local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore the City Council of the City of Madison, Alabama, does ordain as follows:

SECTION B. FINDINGS OF FACT

1) The flood hazard areas of Madison, Alabama are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

2) These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

2) restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion

3) control filling, grading, dredging and other development which may increase flood damage or erosion, and;

4) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;

5) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

SECTION D. OBJECTIVES

The objectives of this ordinance are:

1) to protect human life and health;

2) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

3) to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas,

4) to minimize expenditure of public money for costly flood control projects;

5) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

6) to minimize prolonged business interruptions, and;

7) to insure that potential home buyers are notified that property is in a flood area.

4-13- 2. GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all Areas of Special Flood Hazard within the jurisdiction of Madison, Alabama.

SECTION B. BASIS FOR AREA OF SPECIAL FLOOD HAZARDS

The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its most recent Flood Insurance Study (FIS), with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this ordinance. For those land areas acquired by a municipality through annexation, the current effective FIS and data for Madison County are hereby adopted by reference.
Areas of Special Flood Hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required in conformance with the provisions of this ordinance PRIOR to the commencement of any Development activities.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Madison or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION H. PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $ 500.00 or imprisoned for not more than 6 months, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Madison from taking such other lawful actions as is necessary to prevent or remedy any violation.

4-13- 3. ADMINISTRATION

SECTION A. DESIGNATION OF ORDINANCE ADMINISTRATOR

The Zoning Administrator in the Department of Community Development is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. PERMIT PROCEDURES

Application for a Development Permit shall be made to the Zoning Administrator on forms furnished by the community PRIOR to any development activities, and may include, but not be limited to the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following information is required:

1) Application Stage

(a) Elevation in relation to mean sea level (or highest adjacent

grade) of the regulatory lowest floor level, including basement, of all proposed structures;

(b) Elevation in relation to mean sea level to which any non-residential structure will be floodproofed;

(c) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of 4-13- 4, Sections B(2) and D(2);

(d) Design certification from a registered professional engineer or architect that any new construction or substantial improvement placed in a Coastal High Hazard Area will meet the criteria of 4-13- 4, Section E (5);

(e) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development, and;

2) Construction Stage

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the regulatory floor elevation or flood-proofing level using appropriate FEMA elevation or flood-proofing certificate immediately after the lowest floor or flood-proofing is completed. Where a structure is subject to the provisions applicable to Coastal High Hazard Areas, after placement of the lowest horizontal structural members. Any regulatory floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to submission of these certifications shall be at the permit holder's risk. The Zoning Administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Zoning Administrator shall include, but shall not be limited to:

1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied;

2) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.

3) When Base Flood Elevation data or floodway data have not been provided in accordance with 4-13- 2 Section B, then the Zoning Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other sources in order to administer the provisions of 4-13- 4.

4) Verify and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the regulatory floor level, including basement, of all new construction or substantially improved structures in accordance with 4-13- 3 (B) (2) .

5) Verify and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with 4-13- 4, Sections B (2) and D (2).

6) When flood-proofing is utilized for a structure, the Zoning Administrator shall obtain certification of design criteria from a registered professional engineer or architect in accordance with 4-13- 3(B)(1)(c) and 4-13- 4 (B) (2) or (D) (2) .

7) obtain design certification from a registered professional engineer or architect that any new construction or substantial improvement placed in a **Coastal High Hazard Area** will meet the criteria of 4-13- 4, Section E (5);

8) Notify adjacent communities and the Alabama Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA), and the Alabama Emergency Management Agency (AEMA)

9) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the FEMA and State to ensure accuracy of

community flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.

10) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Zoning Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

11) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Zoning Administrator and shall be open for public inspection.

4-13- 4. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In ALL Areas of Special Flood Hazard the following provisions are required:

1) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;

2) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;

3) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;

4) Elevated Buildings - All New construction or substantial improvements of existing structures that include ANY fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. (NOT APPLICABLE IN COASTAL HIGH HAZARD AREAS)

   (a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

      (i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) The bottom of all openings shall be no higher than one foot above grade; and,

(iii) openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.

(b) So as not to violate the "Lowest Floor" criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area and

(c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

5) All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, an other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

6) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.

7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and;

10) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this ordinance, shall be undertaken only if the nonconformity is not furthered, extended or replaced.

SECTION B. SPECIFIC STANDARDS

In ALL Areas of Special Flood Hazard designated as Al-30, AE, AH, A (with estimated BFE), the following provisions are required:

1) New construction and substantial improvements - Where base flood elevation data are available, new construction or substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of 4-13- 4, Section A(4), "Elevated Buildings".

2) Non-Residential Construction - New construction or the substantial improvement of any non-residential structure located in Al-30, AE, or AH zones, may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in 4-13- 3, Section C(6).

3) Standards for Manufactured Homes and Recreational Vehicles - Where base flood elevation data are available:

(a) All manufactured homes placed or substantially improved on: (i) individual lots or parcels, (ii) in new or substantially improved manufactured home parks or subdivisions, (iii) in expansions to existing manufactured home parks or subdivisions, or (iv) on a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor including basement elevated no lower than one feet above the base flood elevation.

(b) Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:

(i) The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation, or

(ii) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at

least an equivalent strength) of no less than 36 inches in height above grade.

(c) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. (Refer to 4-13- 4, Section A above)

(d) All recreational vehicles placed on sites must either:

(i) Be on the site for fewer than 180 consecutive days, fully licensed and ready for highway use if it is licensed, on it's wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions; or

(ii) The recreational vehicle must meet all the requirements for "New Construction", including the anchoring and elevation requirements of 4-13- 4 Section B (3(a)(c), above.

4) Floodway - Located within Areas of Special Flood Hazard established in 4-13- 2, Section B, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity flood waters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights.

Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment **shall not result in any increase** in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.

(b) ONLY if 4-13- 4 (B)(4)(a) above is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of 4-13- 4.

SECTION C. BUILDING STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAY (A-ZONES)

Located within the Areas of Special Flood Hazard established in 4-13- 2, Section B, where streams exist but no base flood data have been provided (A-Zones), OR where base flood data have been provided but a Floodway has not been delineated, the following provisions apply:

1) When base flood elevation data or floodway data have not been provided in accordance with 4-13- 2(B), then the Zoning Administrator shall obtain, review, and reasonably utilize any scientific or historic Base Flood Elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions of 4-13- 4. ONLY if data are not available from these sources, then the following provisions (2&3) shall apply:

2) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty-five feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

3) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of 4-13- 4, Section A(4) "Elevated Buildings".

   The Zoning Administrator) shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES)

Areas of Special Flood Hazard established in 4-13- 2, Section B, may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet (1'-3') above ground, with no clearly defined channel. The following provisions apply:

1) All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the Flood Insurance Rate Map (FIRM) above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet (3) above the highest adjacent grade. Openings sufficient to facilitate the

unimpeded movements of flood waters shall be provided in accordance with standards of 4-13- 4, Section A(4), "Elevated Buildings".

The Zoning Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

2) New construction or the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus two (2) feet, above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in 4-13-s 3(B)(1)(c) and (3) (B) (2)

3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

SECTION E. COASTAL HIGH HAZARD AREAS (V-ZONES)

Located within the areas of special flood hazard established in 4-13- 2, Section B, are areas designated as Coastal High Hazard areas (V-Zones). These areas have special flood hazards associated with wave action and storm surge, therefore, the following provisions shall apply:

1) All new construction and substantial improvements of existing structures shall be located landward of the reach of the mean high tide;

2) All new construction and substantial improvements of existing structures shall be elevated on piles, columns, or shear walls parallel to the flow of water so that the bottom of the lowest supporting horizontal structural member (excluding pilings or columns) is located no lower than one foot above the base flood elevation level. All space below the lowest supporting member shall remain free of obstruction. Open lattice work or decorative screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with 4-13- 4, Section E(6) below;

3) All new construction and substantial improvements of existing structures shall be securely anchored on pilings, columns, or shear walls; and

4) All pile and column foundations and the structures attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the

combined effects of wind and water loads acting simultaneously on ALL building components, both (non-structural and structural). Water loading values shall equal or exceed those of the base flood. Wind loading values shall be in accordance with the most current edition of the Standard Building Code.

5) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in full compliance with the provisions contained in 4-13- 4, Section E(2)(3)(4) herein.

All space below the lowest horizontal supporting member must remain free of obstruction. open lattice work or decorative screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action without causing structural damage to the supporting foundation or elevated portion of the structure. The following design specifications are allowed:

(a) No solid walls shall be allowed, and;

(b) Material shall consist of lattice or mesh screening only.

(c) If aesthetic lattice work or screening is utilized, any enclosed space shall not be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

7) Prior to construction, plans for any structure using lattice or decorative screening must be submitted to the Zoning Administrator) for approval;

8) Any alteration, repair, reconstruction or improvement to any structure shall not enclose the space below the lowest floor except with lattice work or decorative screening, as provided in this Section.

9) There shall be no fill material used as structural support. Non-compacted fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will wash out from storm surge, (thereby rendering the building free of obstruction) prior to generating excessive loading forces, ramping effects, or wave deflection. The Zoning Administrator shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist, which demonstrates that the following factors have been fully considered:

(a) Particle composition of fill material does not have a tendency for excessive natural compaction;

(b) volume and distribution of fill will not cause wave deflection to adjacent properties; and

(c) Slope of fill will not cause wave run-up or ramping.

10) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage;

11) Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of 4-13- 4, Section E are met.

SECTION F. STANDARDS FOR SUBDIVISIONS

1) All subdivision proposals shall be consistent with the need to minimize flood damage;

2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;

4) Base flood elevation data shall be provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty (50) lots or five (5) acres, whichever is less.

4-13- 5. VARIANCE PROCEDURES

(A) The Zoning Board of Adjustments and Appeals as established by the City of Madison shall hear and decide requests for appeals or variance from the requirements of this ordinance.

(B) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Zoning Administrator in the enforcement or administration of this ordinance.

(C) Any person aggrieved by the decision of the Zoning Board of Adjustments and Appeals may appeal such decision to the Circuit Court, as provided in Title 11, Sec. 52, Code of Alabama.

(D) Variances may be issued for the repair or rehabilitation of Historic Structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an Historic Structure and the variance is the minimum to preserve the historic character and design of the structure.

(E) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

(F) Variances shall not be issued within any designated floodway if ANY increase in flood levels during the base flood discharge would result.

(G) In reviewing such requests, the Zoning Board of Adjustments and Appeals shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.

(H) **Conditions for Variances:**

1) A variance shall be issued **ONLY** when there is:

(i) a finding of good and sufficient cause,

(ii) a determination that failure to grant the variance would result in exceptional hardship, and;

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

2) The provisions of this ordinance are minimum standards for flood loss reduction, therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary considering the flood hazard, to afford relief; and, in the instance of an Historic Structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood

insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.

4) The Zoning Administrator shall maintain the records of all appeal actions and report any variances to the Federal and State Emergency Management Agencies upon request.

(I) Upon consideration of the factors listed above and the purposes of this ordinance, the Zoning Board of Adjustments and Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

4-13- 6. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered "New Construction".

"Appeal" means a request for a review of the Zoning Administrator's interpretation of any provision of this ordinance.

"Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and referenced in 4-13-2, Section B.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under **specific** lateral loading forces, without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for any occupancy or storage.

"Coastal High Hazard Area" means the area subject to high velocity waters caused by, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone Vl - 30, VE or V.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, and permanent storage of equipment or materials.

"Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

"Existing Construction". Any structure for which the "start of construction" commenced before December 15, 1978.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before December 15, 1978.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

"Flood" or "**flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

a. the overflow of inland or tidal waters; or

b. the unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been designated as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

"Flood Insurance Study" the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

"Floodplain" means any land area susceptible to flooding.

“Floodway” (Regulatory Floodway) means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Functionally dependent facility" means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

"Historic Structure" means any structure that is;

a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district:

c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

1) By an approved state program as determined by the Secretary of the Interior, or

2) Directly by the Secretary of the Interior in states without approved programs.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

"Levee System" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this code.

"Mangrove stand" means an assemblage of mangrove trees which is mostly low trees noted for a copious development of interlacing adventitious roots above the ground and which contain one or more of the following species: Black mangrove (Avicennia Nitida); red mangrove (Rhizophora Mangle); white mangrove (Languncularia Racemosa); and buttonwood (Conocarpus Erecta).

"Manufactured home" means a building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929 or other datum.

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

“New construction" means ANY structure (see definition) for which the "start of construction" commenced after December 15, 1978 and includes any subsequent improvements to the structure.

“New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after a December 15, 1978.

"Repetitive Loss" means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

"Recreational vehicle" means a vehicle which is:

a) Built; on a single chassis

b) square feet or less when measured at the largest horizontal projection;

c) Designed to be self-propelled or permanently towable by a light duty truck; and

d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (NOTE: accessory structures are NOT exempt from any ordinance requirements) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "repetitive loss" or "substantial damage', regardless of the actual repair work performed. The market value of the building should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual amount of repair work performed.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance.

4-13- 7. SEVERABILITY

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 4-14 WATER SUPPLY PROTECTION DISTRICT

The Water Supply Protection District is created for the purpose of promoting the public health, safety, and welfare through the protection of public water supplies from the danger of water pollution. Regulations within the district are established to prevent water quality degradation due to pollutant loadings within aquifer recharge areas and with the watersheds of surface public water supplies.

This district shall be in addition to and shall overlay all other zoning districts where it is applied, so that any parcel of land lying in such an overlay district shall lie in one or more other zoning districts provided for by the Zoning Ordinance. The effect is to create a new district that has the characteristics and limitations of the underlying district, together with the characteristics and limitations of the overlying district.

Within the Water Supply Protection District, two areas shall be designated, to be known as "Area 1" and "Area 2." Area 1 shall be the area where the most stringent protection of the water supply is necessary, and shall normally be in relatively close proximity to a wellhead. Area 2 shall encompass all other areas in the Water Supply Protection District.

Regulations within such an overlay district are intended to provide a means for specific review and approval of residential, commercial, industrial and other development proposals that may have adverse water quality impacts; to encourage land uses and activities which will be compatible with water quality protection; and to assure that structures and uses within such overlay districts will be developed in a manner that will serve the health, safety and welfare objectives of preserving the environmental integrity of public water supplies.

4-14-1 Boundaries

The Water Supply Protection District (WSP), including the "Area 1" (WSP-1) and "Area 2" (WSP-2) boundaries, as referenced on the attached Official Zoning Map, is hereby established. The boundaries shall be amended in the same manner as any other zoning district permitted by the Zoning Ordinance, and may be amended in accordance with the provisions of Section 3-2.

4-14-2 Regulations Applying to Area 1 and Area 2

In addition to the regulations applicable to the underlying zoning district or districts, the following regulations shall apply to all parcels located entirely or partially in Area 1 and Area 2:

1. Any establishment for warehousing, production, processing, assembly, manufacture, preparation, compounding, cleaning, servicing, testing, or repair of materials, goods or products which generates, stores, treats, utilizes and/or disposes of a hazardous or toxic material or waste, as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 *et seq*., shall submit the

following information with any application for a proposed development or use:

A. A listing of all toxic and hazardous materials and wastes that will be generated, utilized, stored, treated, and/or disposed of on site;

B. A soils report describing the nature and characteristics of the soils covering the site;

C. A description of surface and groundwater characteristics of the site and the surrounding area within 300 feet of site boundaries;

D. A description of all spill prevention, containment, and leakage control measures proposed by the applicant, for all toxic and hazardous materials and wastes generated, utilized, stored, treated, and/or disposed of on the site, including an emergency spill response plan;

E. A letter from the Fire Chief of the City of Madison, concurred with by the Water and Wastewater Board of the City of Madison, that the procedures proposed in Section 4-14-2 (1)(D) comply with all applicable adopted laws, ordinance and regulations;

F. An inventory of all existing and proposed wells, septic tanks, injection wells, and similar facilities on the site, whether in use or not;

G. Any other proposed or existing activities on the site that might impact groundwater quality;

H. A copy of any applicable permits under the National Pollutant Discharge Elimination System, Federal Wetlands regulations, or other provision of the Clean Water Act, or pursuant to the Endangered Species Act, National Environmental Policy Act, or similar legislation intended to address water pollution.

2. Such information shall be referred to the City Engineer and the Water and Wastewater Board of the City of Madison for review in accordance with the provisions of applicable laws and ordinances. When deemed appropriate, the City Engineer may furnish a copy of the application and supporting information to the directors of the Alabama Department of Environmental Management, the Alabama State Department of Health, and other appropriate agencies.

4-14-3 Regulations Applying only in Area 1

In addition to the regulations applicable to the underlying zoning district or districts, the following regulations shall apply to all parcels located entirely or partially in Area 1:

1. No new land use shall be authorized that entails the use, storage, generation, or disposal of any hazardous or toxic material or waste, as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 *et seq.*

2. No discontinued land use that entailed the use, storage, generation, or disposal of any hazardous or toxic material or waste, as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 *et seq.*, may be resumed once the activity has been discontinued for 30 days.

3. No change of occupancy of an existing structure shall be authorized for any tenant or owner who proposes to establish or continue a land use that entails the use, storage, generation, or disposal of any hazardous or toxic material or waste, as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 *et seq.* It shall be a violation of this ordinance to establish or continue such a use in Area I subsequent to a change in occupancy even if a former tenant or owner had carried out such a use.

4. In the event that stormwater runoff is directed toward, or may enter, an opening in the ground that provides access to the groundwater table (e.g., well, sinkhole, etc.), the developer shall present a mitigation plan to ensure that no pollutants enter the groundwater table during construction. Additionally, the developer shall, in concert with the Water and Wastewater Board of the City of Madison, take steps to ensure that any such openings are protected from any future surface water infiltration. This may be accomplished by permanently closing such openings, or by taking other steps acceptable to the Board.

4-14-4 Administration

1. The Director of Community Development or his designee shall be responsible for reviewing all proposed development orders and land uses within the Water Supply Protection district for compliance with this ordinance. No zoning, building, or other permit, and no certificate of occupancy, shall be issued for any structure or use not in compliance with this ordinance.
2. Upon the receipt of an application for a Business Privilege License by a business located in Area I or Area II, the Director of Community Development or his designee shall review all information presented by the applicant pursuant to Section 7-11 (e) of the Madison Code of Ordinances. The Director, or his designee, shall not certify to the Revenue Department that the requirements of Sec 7-11 (b) of the Madison Code of Ordinance have been met until compliance with Section 7-11(e) has been demonstrated by the applicant.

Section 4-15 Downtown Redevelopment Incentive (DRI) Overlay District.

~~(a)~~ Purpose. The Downtown Redevelopment Incentive (DRI) Overlay District affords additional development opportunity over that provided by the underlying zoning regulations. The DRI overlay is intended to encourage development by enabling mixed-use development, higher development density and intensity, and relief from other development restrictions in the Zoning Ordinance.

(b) Application and Effect. The DRI Overlay District shall be as depicted on the attached map and accompanying legal description. Properties in this

district wishing to develop pursuant to the regulations for the DRI District must seek a Specific Development Permit to do so. The development standards for the underlying districts remain in effect within the DRI Overlay District except as modified herein and by any development approval issued pursuant thereto. Any project proposing to meet the standards of the underlying district shall not be subject to the provisions of this ordinance unless the developer elects to come under this ordinance voluntarily.

(c) Modified Development Standards. The following standards shall apply to development within the DRI in lieu of any requirements of the underlying zoning district:

(1) Alternate Off-Street Parking Requirements. Developments shall not be required to provide their own offstreet parking, either on-site or off-site. Parking may be provided voluntarily at the option of the developer.

(2) Yards and Street Setbacks

a. Side and rear yards for all parking areas and for buildings adjacent to residential districts outside the DRI or adjacent to a public street shall be as required by the underlying district.
b. Any portion of a building used for residential occupancy and having windows shall be at least five feet from side and rear property lines.
c. No side or rear yard is required for any building not used as a residence, including stories used for parking or other nonresidential uses below residential floors.
d. Street setback for parking areas shall be at least ten feet.
e. A minimum street setback of five feet shall be provided for buildings.

(3) Density and Bulk Regulations. Specific development plans pursuant to this section are not subject to the lot coverage, minimum open space, or parking lot landscaping requirements of the underlying zoning district or this zoning ordinance, or the maximum residential density or minimum lot size provisions of the underlying zoning district. The Planning Commission may set density, bulk, lot coverage, signage, open space, and landscaping requirements as part of a development review process for developments in the DRI District.

(4) Landscaping. All courts, yards, setbacks and parking areas shall be landscaped to the satisfaction of the Planning Commission as specified in the specific development plan. Sidewalks normally are required, at the discretion of the Planning Commission.

(5) Uses and Mixed Uses. The Planning Commission may approve structures and uses not permitted by the underlying zoning district on a discretionary basis, based on the external impact and

general compatibility of the project with the DRI. The Planning Commission may permit more than one principal use on a lot, such as upstairs apartments over storefront commercial, or residential and office uses on the same lot or within the same structure (e.g., a doctor who works out of the home in which he/she resides). In permitting such uses and mixed uses, the Planning Commission may prescribe certain conditions including, but not limited to, hours of operation, limits on noise, etc.

(6) In the DRI District, the Planning Commission may act in place of the Board of Adjustment to approve major home occupations pursuant to this provision.

(7) In addition to those listed above, the following criteria shall not apply to development within the DRI and need not be addressed in the application for Specific Development Plan Approval:

a. requirements related to drainage and flood protection (5-2-4(x,y,z)), except that this exception shall not apply to new construction
b. requirements related to grading and landscaping except as specifically stated in this section (Sec. 5-2-4(l, w, aa))
c. requirements relating to open space (Sec. 5-2-4(q))
d. requirements related to fire suppression sprinklers, with the concurrence of the Fire Department (5-2-4(ah))

(d) Procedure for Specific Development Plan Review

(1) Uses involving new construction or exterior remodeling

a. All uses involving new construction or exterior remodeling require Specific Development Plan Approval.
b. All petitions for Specific Development Plan Approval shall be presented to the Planning Commission as a site plan submittal, according to the requirements of Sec. 5-2-4 of the Zoning Ordinance. Requirements from which the development is exempted by the provisions of this section need not be addressed.
c. The Planning Commission shall hold an advertised public hearing on the development proposal. The Commission shall advertise the hearing once at least 10 days in advance in a newspaper of general circulation within the City of Madison.
d. If necessary to the development, the petitioner shall also submit any required subdivision plat(s) according to the provisions of the Commission's Subdivision Regulations. The Planning Commission shall consider and act on any such plan prior to or concurrent with the Specific Development Proposal. Regular review procedures and advertising requirements found in the Subdivision Regulations shall apply.

e. The Planning Commission may grant variances for minimum lot size, street frontage, or other provisions of the Subdivision Regulations in conjunction with the application for subdivision approval. Procedures found in Chapter IX of the Subdivision Regulations related to Variances shall apply.

f. For any proposed development within the Historic District as defined by Ordinance 89-45 (codified at Art. V, Sec. 16-60, Madison Code of Ordinances), at any time prior to submittal of the Specific Development Plan and any required subdivision plats, the petitioner shall present a copy thereof to the Madison Station Architectural Review Board along with an application for a Certificate of Appropriateness. The Board shall review the development proposal according to its rules and governing ordinance (Ordinance No. 89-45, codified at Art. V, Sec. 16-60, Madison Code of Ordinances) and shall either deny, issue, or issue with conditions such a Certificate within 60 days after submission. Appeals from the decision of the Architectural Review Board respecting the Certificate of Appropriateness shall be to the City Council in accordance with Sec. 16-77, Madison Code of Ordinances. The Architectural Review Board's findings and decision with respect to the Certificate of Appropriateness shall be reported to the Planning Commission prior to the Planning Commission's public hearing on the project.

(2) Special Use Petitions

a. Uses not permitted in the underlying zoning district by right or special exception shall require approval of a Special Use Petition by the Planning Commission pursuant to Sec. 4-15 (c)(5) herein.

b. Uses proposed in conjunction with new construction or exterior remodeling or alteration shall be decided in accordance with Sec. 4-15 (d)(1) herein.

c. The Planning Commission, upon written petition, may approve a Special Use petition for uses not involving new construction or remodeling but not permitted by the underlying zoning district. Provided that, any use that is permitted within the underlying zoning district shall be permitted by right and shall not require approval of the Planning Commission. Additionally, uses permitted as a Special Exception in the underlying zoning district shall be adjudicated by the Zoning Board of Adjustment according to their rules and procedures.

d. The Planning Commission shall hold an advertised public hearing on the proposed use. The Commission shall advertise the hearing once at least 10 days in advance in a newspaper of general circulation within the City of Madison.

(3) Action by Planning Commission

a. The Planning Commission shall act on any petition submitted pursuant to this section at or before its next regular meeting held subsequent to the meeting at which the petition is considered.

b. The Planning Commission may attach to any approved Specific Development Plan Approval reasonable conditions not inconsistent with this section or other provision of law or regulation. Failure to adhere to said conditions shall result in non-issuance of a Certificate of Occupancy for the project or use.

c. Once required approvals have been granted by the Planning Commission, the City shall issue any required building permits, licenses, or other permits not inconsistent with such approval. Provided, however, that nothing in this Ordinance shall be construed to repeal or modify any law, ordinance or regulation of the City not specifically addressed herein.

Downtown Redevelopment Incentive District Legal Description

All that part of Section 16 Township 4 South Range 2 West of the Huntsville Meridian Madison County, Alabama

Further described as commencing at a point which is located in the centerline of the Northfolk Southern main track and the centerline of Sullivan Street;

Thence from the Point of Beginning South along the centerline of Sullivan Street to a point which is at 90 degree angles from the centerline of Sullivan Street the Southwest corner of Clanton Muffler Shop and the Northwest corner of Madison Machine Tech, Incorporated;

Thence due East to the centerline of Celtic Drive;

Thence North along the centerline of Celtic Drive to the centerline of Lanier Road;

Thence West along the centerline of Lanier Road to a point which is 160 feet East of the centerline of Cain Street;

Thence North and parallel to Cain Street to a point on the Historical District line;

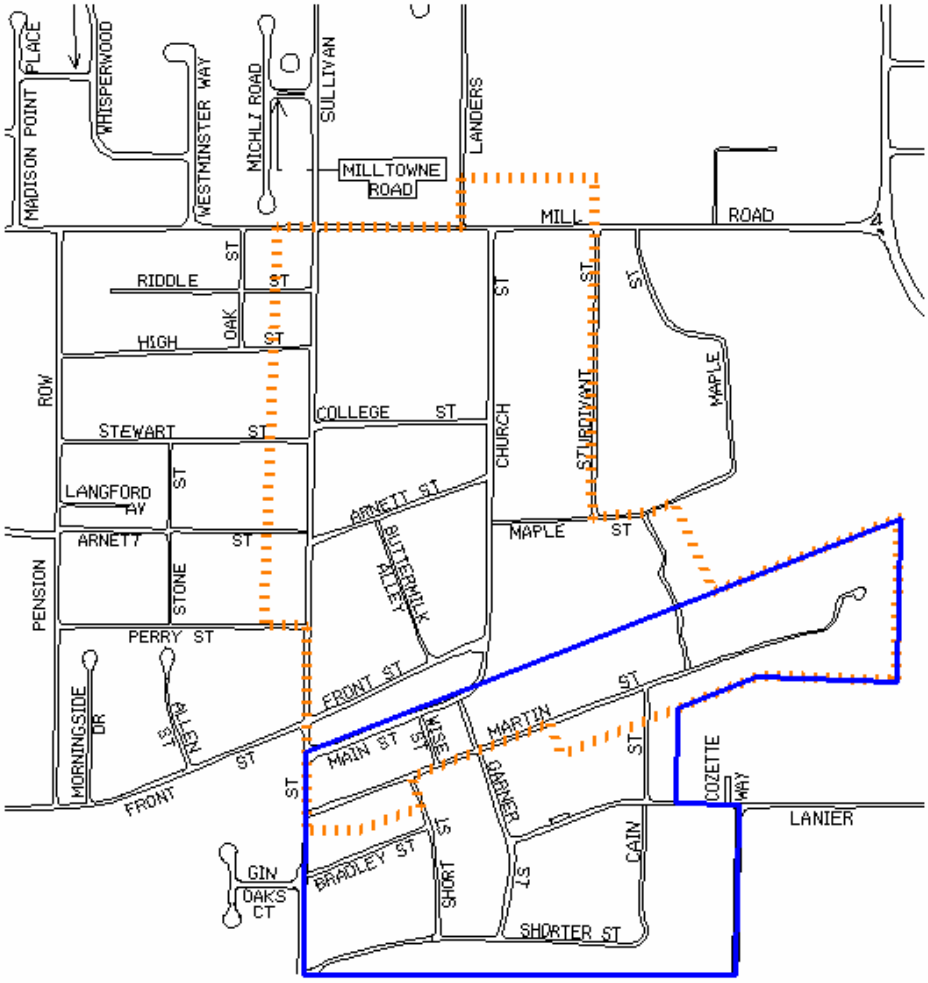
Thence and with the Historical District line in a Northeastwardly direction approximately 390 feet;

Thence East and along said Historical District line approximately 640 feet to a point;

Thence North and along said Historical District line to the centerline of NorthFolk Southern main tract;

Thence in a Southwestwardly direction along said track to the Point of Beginning.

Downtown Redevelopment Incentive District Overlay Map



ARTICLE V

GENERAL PROVISIONS

Section 5-1. Interpretation of District Regulations (ord 97-159, 1-26-98)

The following regulations shall be enforced and interpreted according to the following rules:

5-1-1 Permitted Uses. Uses not designated as Permitted Uses or subject to additional conditions shall be prohibited.

5-1-2 Special Exceptions. Special Exceptions are permitted according to additional regulations imposed. The Special Exceptions can be approved only by the Zoning Board of Adjustment in accordance with Article X, Section 10-8 of this Ordinance.

5-1-3 Minimum Regulations. Regulations set forth by this Ordinance shall be minimum regulations. If the district requirements set forth in this Ordinance are at variance with the requirements of any other lawfully adopted uses, regulations or ordinances, the more restrictive or higher standard shall govern.

5-1-4 Land Covenants. Unless restrictions established by covenants with the land are prohibited by, or are contrary to, the provisions of this Ordinance, nothing herein contained shall be construed to render such covenants inoperative.

5-1-5 Alternative Rear Yard Dimensional Requirements Where Building or Structure Encroaches Over Rear Set-back Line Within Residential R-1, R-1A, R-1B and R-2 Zones.

Whenever a single family detached home, or any portion thereof, located in the R-1, R-1A, R-1B, or R-2 zoning district encroaches, or is planned or designed to encroach beyond the established rear building set-back line, the chief administrative officer is hereby authorized and directed to permit the construction of the house, provided the following alternative dimensional requirements are met.

A. For nonrectangular lots:

(1) In the R-1 district, the minimum rear yard setback may be reduced to 25 ft, provided that the rear yard contains at least 7500 sq. ft.

(2) In the R-1A and R-1B districts, the minimum rear yard setback may be reduced to 22.5 ft., provided the rear yard contains at least 4500 sq. ft.

(3) In the R-2 district, the minimum rear yard setback may be reduced to 20 ft., provided the rear yard contains at least 2800 sq. ft.

B. For rectangular lots:

(1) In the R-1 district, the minimum rear yard setback may be reduced to 30 ft, provided that the rear yard contains at least 7500 sq. ft.

(2) In the R-1A and R-1B districts, the minimum rear yard setback may be reduced to 30 ft., provided the rear yard contains at least 4500 sq. ft.

(3) In the R-2 district, the minimum rear yard setback may be reduced to 25 ft., provided the rear yard contains at least 2800 sq. ft.

C. For the purposes of this section, the following terms will be defined as follows and depicted on the attached drawing:

(a) Front yard: the yard between the front face of the house and the street, extending from side lot line to side lot line, and meeting side lot lines at a 90 degree angle

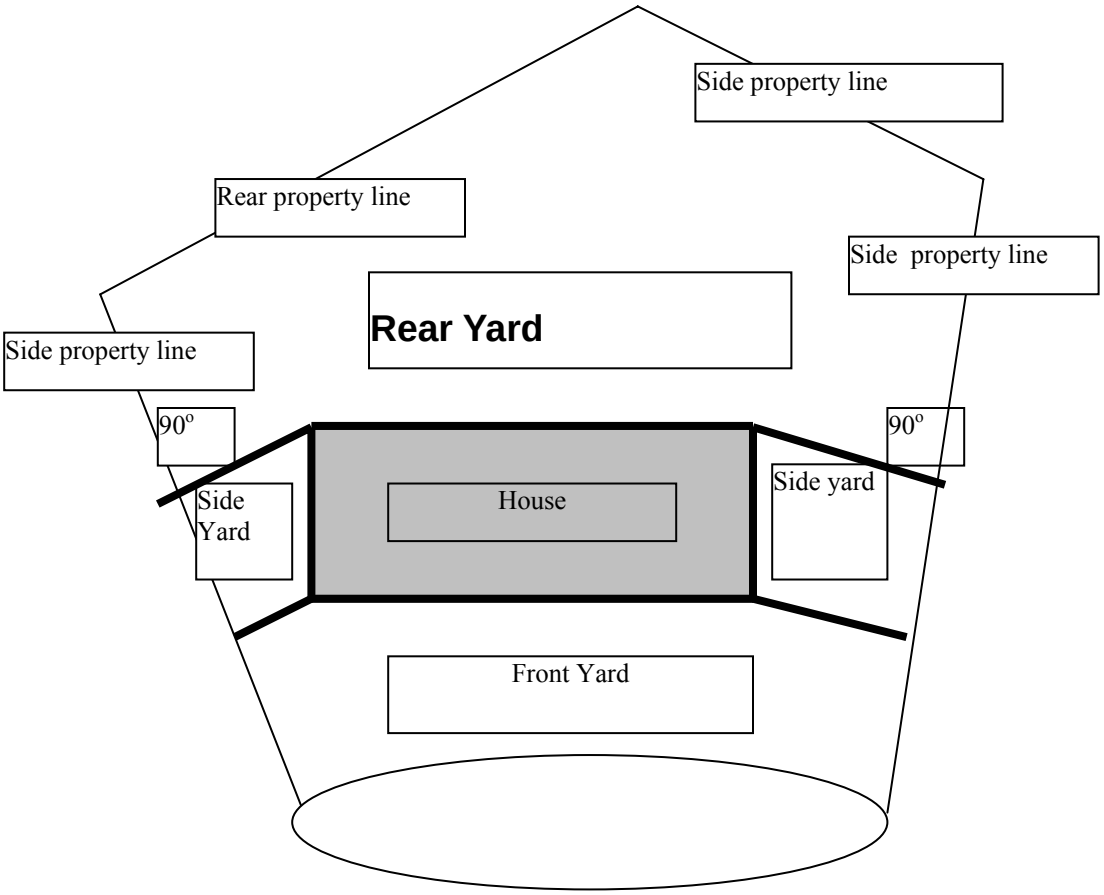
(b) Rear yard: the yard opposite the front yard, extending from the rear property line to the rear face of the house, and from side lot line to side lot line, meeting a side lot line at a 90 degree angle.

(c) Rear property line: the longest continuous property line that is not the front property line or a property line contiguous to the front property line.

(d) Side yard: any yard not a rear yard or front yard as defined herein.

(e) Rectangular lot: a four-sided lot whose front and rear property lines do not differ in length by more than 5%, and whose side lot lines do not differ in length by more than 5%, and whose four property lines meet at four corners, all of which are between 80 degrees and 100 degrees.

(f) Nonrectangular lot: any lot not a rectangular lot.



Section 5-2. Site Plan Review and Approval (Ord. 93-163)(Ord. 97-07) (Ord. 2000-37) (2001-157)

It is recognized by this Ordinance that there is a value to the public in establishing safe and convenient traffic movement to higher density sites both within the site and in relation to access streets; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further, that there are benefits to the public in conserving natural resources. Toward this end, this Ordinance requires site plan review by the Planning Commission for certain buildings and structures that can be expected to have a significant impact on natural resources, traffic patterns, and on adjacent land uses.

5-2-1 Site Plan Required

(a) Buildings, Structures, and Uses Requiring Site Plan.

The Administrative Officer shall not issue a Building Permit or Certificate of Occupancy for the construction of the buildings and structures identified in this Section unless a detailed site plan has been reviewed and approved by the Planning Commission and such approval is in effect for the following uses:

1. Mobile home park.

2. all structures and uses except for one- and- two family dwellings and structures accessory to one- and two- family dwellings.

(b) Exceptions; Administrative Review

The following structures and uses, when applied for alone and not in conjunction with any structure or use requiring approval by the Planning Commission, may be approved administratively by the Director of Community Development or his authorized designee:

1. additions to a principal structure of not more than 20% gross floor area
2. addition of accessory structures or uses, provided that the aggregate square footage of all accessory structures with roof impervious to weather does not exceed 20% of the floor area of the principal structure
3. other changes to a site not involving the construction or alteration of any building

5-2-2 Application for Site Plan Review.

Any person may file a request for a site plan review by the Planning Commission by filing with the Administrative Officer the completed application upon the forms furnished by the Administrative Officer. All such site plan applications shall be filed at least 30 days prior to the next regularly scheduled meeting of the Planning Commission. As an integral part of said application, the applicant shall file at least four (4) copies of a site plan. After staff comments have been received and responded to, and the Director

has signed the certificate required by Section 5-2-4 (ac), twelve (12) copies of the corrected site plan shall be submitted at least ten calendar days prior to the meeting at which the Planning Commission shall consider the application. All site plans must be designed by a registered professional engineer, registered landscape architect, licensed architect, or licensed surveyor, licensed in Alabama and the City of Madison.

5-2-2A Site Plan Review Fee

The applicant for a site plan certificate, whether processed by the Planning Commission pursuant to Sec. 5-2-3, or administratively pursuant to Sec. 5-2-9, or for amendment pursuant to Sec. 5-2-8, shall remit the following fee(s) to the City:

Fee for site plan

Up to five acres	$100.00
5.1 to 10 acres	$200.00
More than 10 acres	$300.00
Amendments	$ 50.00
Drainage Review Fee	$25.00 + $5.00 per acre

5-2-3 Planning Commission Review of Site Plan.

Upon receipt of such application from the Administrative Officer, the Planning Commission shall undertake a study of the same and shall, within sixty (60) days, approve or disapprove such site plan, advising the applicant in writing of the recommendation, including any changes or modifications in the proposed site plan as are needed to achieve conformity to the standards specified in this Ordinance.

5-2-4 Required Data for Site Plan.

Every site plan submitted to the Planning Commission shall be in accordance with the following:

(a) The site plan shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals one hundred (100) feet and of such accuracy that the Planning Commission can readily interpret the site plan and shall include more than one drawing where required for clarity.

(b) The proposed title and street address of the project and the name of the owners, engineer, architect, designer, or landscape architect of the development, north arrow and date.

(c) Vicinity map showing the location of the project in relation to the surrounding community, including adjacent zoning.

(d) Existing zoning and zoning district boundaries. In the case of a Special Exception, approved by the Zoning Board of Adjustment, any appropriate conditions and safeguards imposed by the Board shall also be indicated on the site plan.

(e) The boundaries of the property involved, the location of all existing easements, section lines, and property lines, and other physical and natural features in or adjoining the project.

(f) Names and addresses of all adjoining land owners.

(g) Acreage in total project; acres to be developed.

(h) The location of existing and proposed buildings, sanitary and storm sewers, water mains, culverts, and other public utilities in or adjacent to the project.

(i) The site plan shall show the proposed streets, driveways, sidewalks, and other vehicular and pedestrian circulation features within an adjacent to the site; also, the location, size and number of parking spaces in the offstreet parking area, and the identification of service lanes and service parking.

(j) Location and type of buffer strip and other open spaces including recreation areas, if any.

(k) The site plan shall show the location, proposed finished floor and grade line elevations, size of proposed principal and accessory buildings, their relation one to another and to any existing structure on the site, the height of all buildings and square footage of floor space. Site plans for residential development shall include a density schedule showing the number of dwelling units per net acre, including a dwelling schedule showing the unit type and number of each unit type.

(l) The site plan shall show the proposed location, use and size of open spaces and the location of any landscaping, fences, or walls on the site. Any proposed alterations to the topography and other natural features shall be indicated.

(m) zoning district in which the site is located and the anticipated use of the structures

(n) any floating districts, special districts, and performance standards related to said districts

(o) density or intensity of use, expressed as floor area ratio

(p) signs

(q) Open Space Requirements and calculations for open space provided

(r) Variances applying to land

(s) sufficient information for the reviewer to determine if all dimensional requirements and required conditions related to the zoning district(s) are met

(t) a Certificate of Appropriateness from the Madison Station Architectural Review Board, if required

(u) a copy of the record plat showing all Easements, dimensions, and other information required to be presented on the record plat.

(v) a tree plat and tree removal permit application, as required by the Tree Preservation Ordinance, if applicable

(w) a Grading Plan prepared to professionally acceptable engineering standards

(x) a Drainage Plan prepared to professionally acceptable engineering standards, providing protection from the 100 year flood for all structures, and protection from the 10 year flood for all other areas

(y) finished floor and grade line elevations

(z) Flood Hazard zone and boundaries thereof

(aa) all information required by the Parking Lot Landscaping Ordinance

(ab) a written statement from the Madison Water and Wastewater Authority that the site plan is approved by them for new service.

(ac) a certificate signed by the Director that all required information has been presented and that all applicable City regulations are complied with.

(ad) a certificate, to appear on the reproducible of the site plan, for the signature of the Chairman of the Planning Commission.

(ae) type construction of principal and accessory structures based on classifications in adopted building code

(af) proposed occupancy type based on classifications in adopted building code

(ag) proposed number of stories in principal structure with square footage of each floor

(ah) proposed type and extent of installed fire protection systems including fire flows

5-2-5 Standards for Site Plan Review

In reviewing the site plan, the Planning Commission shall ascertain whether the proposed site plan is consistent with all regulations of this Ordinance and any other applicable law, ordinance or regulation of any jurisdiction of competent authority for which the City has enforcement

responsibility. Further, in consideration of each site plan, the Planning Commission shall find that provisions of this Section of this Ordinance as well as the provisions of the zoning district in which said buildings, structures and uses as indicated in the proposed site plan have been satisfactorily demonstrated and met by the applicant.

5-2-6 Planning Commission Approval of Site Plan

Upon the Planning Commission's recommended approval of a site plan, the applicant shall file with the Planning Commission one (1) copy thereof. The Planning Commission Chairman shall within ten (10) days transmit to the Administrative Officer one (1) copy with the Chairman's signature, certifying that said approved site plan conforms to the provisions of this Ordinance as determined. If the site plan is disapproved by the Planning Commission, notification of such disapproval shall be given to the applicant within ten (10) days after such Planning Commission action. The Administrative Officer shall not issue a Building Permit or Certificate of Occupancy until he has received a certified approved site plan.

5-2-7 Expiration of Site Plan Certificate.

The site plan certificate shall expire, and be of no effect, three hundred sixty-five (365) days after the date of issuance thereof, unless within such time, the Administrative Officer has issued a Building Permit or Certificate of Occupancy for any proposed work authorized under a site plan certificate.

5-2-8 Amendment, Revision of Site Plan.

A site plan, and site plan certificate issued thereon, may be amended by the Planning Commission upon the request of the applicant. No site plan approved by the Planning Commission may be amended administratively by City staff, except for the approval of minor change orders, which may be approved by the City Engineer and the Director of Community Development. Such change orders shall not be issued if they approve, nor shall such change orders be construed to approve, changes to the location or configuration of the structures or uses (including densities or intensities) as depicted on the approved site plan. The City Engineer and Director of Community Development shall have the authority to approve deviations from the approved site plan only to the extent that such deviations do not violate any applicable regulation, law, or ordinance.

5-2-9 Administrative Approval of Site Plan.

Any site plan exempted from review by the Planning Commission by operation of Section 5-2-1 (b) of this Ordinance shall be approved administratively by the Director of Community Development upon his finding that the site plan meets all requirements established by all applicable regulations, laws, and ordinances, including all those sections and subsections of this chapter from which such site plans are not specifically exempted. Normally, all information required to be presented to the Planning Commission under Section 5-2-4 of this ordinance must be presented to the Director of Community Development in support of any site plan application to be approved by him. However, the Director may permit the applicant to omit the following information from the application when appropriate:

(a) Vicinity map showing the location of the project in relation to the surrounding community, including adjacent zoning.

(b) Existing zoning and zoning district boundaries.

(c) Names and addresses of all adjoining land owners.

(d) Location and type of buffer strip and other open spaces including recreation areas, if any.

(e) the location, proposed finished floor and grade line elevations, size of existing principal and accessory buildings, their relation one to another and to any existing structure on the site, the height of all buildings and square footage of floor space.

(f) zoning district in which the site is located and use of the existing structures

(g) any floating districts, special districts, and performance standards related to said districts

(h) signs

(i) Variances applying to land

(j) a Grading Plan prepared to professionally acceptable engineering standards, provided no grading work is planned

(k) a Drainage Plan prepared to professionally acceptable engineering standards, provided any increase in impervious surface does not exceed 5% of the total site

(l) finished floor and grade line elevations of existing buildings

(m) all information required by the Parking Lot Landscaping Ordinance, unless parking spaces are planned to be added

Additionally, site plans reviewed administratively under the provisions of Section 5-2-1 (b) of this Ordinance need not be drawn by a registered professional engineer, registered landscape architect, licensed architect, or licensed surveyor, as would normally be required for site plans to be approved by the Planning Commission, unless required by state law.

5-2-10 Time Standards

Site plans submitted and accepted for administrative approval shall be approved by the Director or his designee within ten days after the application is complete, and all supporting information has been furnished to the Department.

5-2-11 Appeals to the Planning Commission

Any applicant for an administrative site plan approval under Section 5-2-1 (b) of this ordinance, whose application is denied by the Director of Community Development, may appeal this determination to the Planning Commission. The Planning Commission may request additional information from the applicant in order to decide such an appeal. The Planning Commission shall decide all appeals within 30 days after filing of the appeal with the Department of Community Development, unless the Commission and the applicant mutually agree to a delay in the process.

5-2-12 Appeals to the Zoning Board of Adjustment and Appeals

Nothing in this Section shall operate to abridge the rights of any applicant for a site plan certificate under Chapter 10 of the Zoning Ordinance. Should an applicant who is aggrieved by the decision of the Director of Community Development to deny a site plan application so choose, he may appeal that decision under any provision of said Chapter without the necessity of appealing to the Planning Commission under Section 5-2-11 above. The provisions of Chapter 10 and the rules of the Zoning Board of Adjustment and Appeals shall govern all such appeals.

Section 5-3. Visibility at Intersections in Residential Districts

On a corner lot in all residential zoning districts, no fence, wall, hedge, or other planting or structure that will obstruct vision between a height of two and one-half (2 1/2) and six (6) feet above the centerline grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed by the right-of-way lines at such corner lots and a straight line joining said right-of-way lines at points which are thirty (30) feet distant from the intersection of the right-of-way lines and measured along said right-of-way lines.

Section 5-4. Lot Size

No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per dwelling unit or other requirements of this Ordinance are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

Section 5-5. Yard Use Limitations

No part of a yard or other open space required about any building or use for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another building or use.

Section 5-6. One Principal Building on a Lot

Every building hereafter erected, moved or structurally altered shall be located on a lot, and in no case shall there be more than one (1) principal building and its customary accessory buildings on the lot, except in the case of a specially designed complex of institutional, residential, commercial, or industrial buildings in an appropriate zoning district.

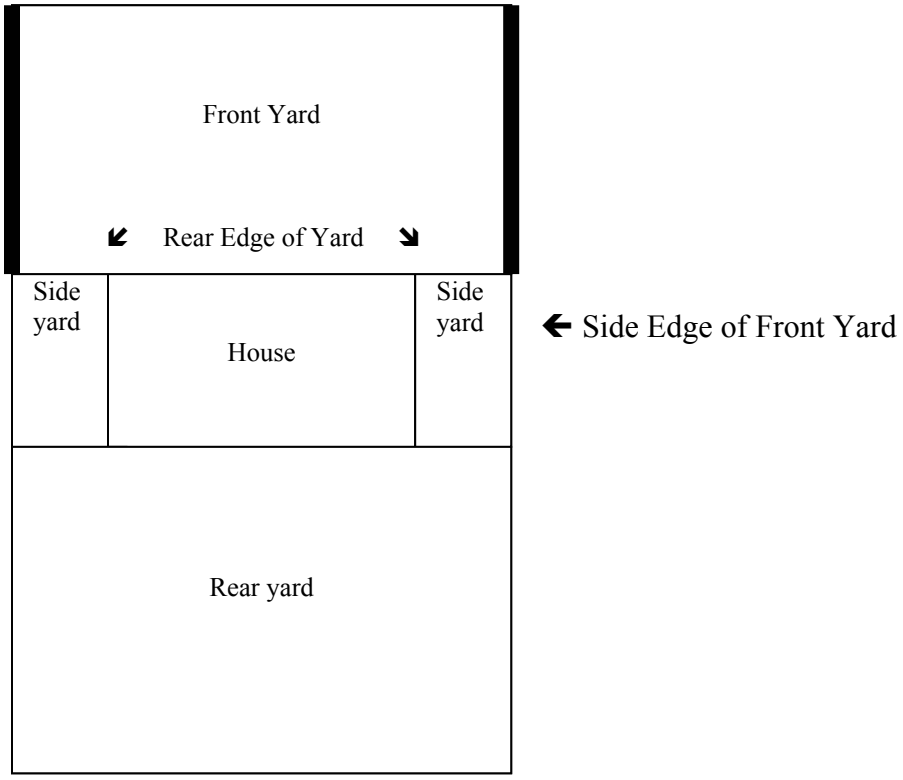
Section 5-7. Access to a Public Street

Section 5-7. Access to a Public Street (Ord. 97-50)

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required offstreet parking. No dwelling shall be erected on a lot or portion of a lot which does not abut on at least one public street or approved private street for at least twenty (20) feet. Special traffic lanes, designed to accommodate the deceleration of traffic into, and the acceleration of traffic out of the site, may be required by the City Engineer if, in his opinion, this would enhance traffic safety either within the site or on any road from which the site has access. Such lanes may abut the development, and/or may be "center turn lanes," as recommended by the City Engineer. The need for and design of such lanes will be based on generally recognized principles of traffic engineering. Said lanes may be constructed on public right-of-way or on the site, at the discretion of the City Engineer. The Planning Commission shall have the authority to require the provision of acceleration and/or deceleration lanes when it is of the opinion that they are necessary for traffic safety, even if not recommended by the City Engineer.

Section 5-8. Fences, Walls and Hedges (ord. 97-142,12-8-97)

Notwithstanding other provisions of this Zoning Ordinance, fences, walls, and hedges may be permitted in any side or rear yard, or along the side or rear edge of any front yard; provided that no solid fence, solid wall, or hedge along the edge of the front yard shall constitute any obstruction to visibility above two and one-half (2 1/2) feet above ground level. Hedges shall be permitted in required front yards, provided they do not extend into the street right-of-way or constitute an obstruction to visibility above two and one-half (2 1/2) feet above ground level. Hedges and fences shall be permitted in City easements, provided that, if the City accesses the easement for any lawful purpose, it may, if necessary, remove any fences and hedges therein without replacing them.



Section 5-9. Accessory Uses and Structures (Ord. 97-50)

In Residential Districts, accessory uses and structures with a roof impervious to weather shall not be located in any required front or side yards. Accessory structures, if not attached to a principal structure, shall be separated by at least eight (8) feet from said structure. The area designed or used for such accessory use or structure shall not exceed twenty-five (25) percent of the floor area of the dwelling unit.

5-9-1 Temporary Structures. Temporary structures incidental to construction of buildings or structures are permitted provided such structures shall be removed following completion or abandonment of such construction.

5-9-2 Swimming Pools. Private swimming pools constructed in a residential district as an accessory use to a residence shall be located in the rear yard only and shall maintain a minimum rear yard of ten (10) feet.

5-9-3. Temporary Real Estate Sales Office. A temporary real estate sales office is permitted in a subdivision during the development of such subdivision provided its use relates only to the subdivision in which it is located and provided it shall be removed after seventy- five (75) percent of the lots are sold.

5-9-4. Temporary Portable School Classroom Buildings. Temporary Portable School classroom buildings may be placed in any zoning district on property owned or leased by the school, and may be placed in required side yards or rear yards, provided that they are set back at least twenty (20) feet from the nearest property line and forty (40) feet from any adjoining street, and provided that they meet all requirements in Appendix H of the Standard Building Code ("Mobile Home Tiedown Standards")., as may be amended from time to time. Provided further, that all temporary portable public school classroom buildings shall be subject to inspection by the City prior to occupancy, unless they have been certified in compliance with the Federal Mobile Home Construction and Safety Standards as evidenced by a seal properly affixed thereto.

Section 5-10. Corner Lots (Ord. 97-50)

Corner lots in Residential Districts have two front yards. Houses whose fronts are oriented parallel to a street shall maintain required front yards on such street. The front yard on the remaining street may be ten (10) feet less than the normal front yard required provided it is not less than twenty (20) feet to the nearest point on the street line.

Corner lots in nonresidential districts have only one front yard, which is the yard with the shortest street frontage. The yard opposite this yard is the rear yard, and the other yards are side yards. All side yard setbacks in nonresidential districts abutting a street line shall be increased by 10 ft. beyond the normally required side yard setback.

Section 5-11. Yards

5-11-1 Projecting Architectural Features. The space in any required yard shall be open and unobstructed except for the ordinary projections of window sills, cornices, eaves, and other architectural features provided that such features shall not project more than two (2) feet into any required yard. Apparatus needed for the operation of active and passive solar energy systems including, but not limited to, overhangs, movable insulating walls and roofs, detached solar collectors, reflectors and piping shall not project more than four (4) feet into any required yard.

5-11-2 Porches. Any porch or carport having a roof shall be considered a part of the building for the determination of the size of the yard or lot coverage.

5-11-3 Terraces. A paved terrace shall not be considered in the determination of the size of the yard or lot coverage.

5-11-4 Front Yards. Where the developed lots within one hundred (100) feet on the same side of the street of any undeveloped lot have a greater or less front yard than required herein, the front yard of such undeveloped lot shall be within five (5) feet of the average front yard; provided no front yard shall be less than twenty (20) feet. Front yards fronting on Highway 72 and Highway 20 shall maintain a front yard of seventy-five (75) feet.

Section 5-12. Parking and Storage of Certain Vehicles

Automotive vehicles, or trailers of any type without current license plates shall not be parked or stored other than in completely enclosed buildings on any residentially zoned property.

Section 5-13. Essential Services (Ord. 97-59)

Section 5-13. Essential Services

Essential services are permissible by Special Exception or Permitted Use in any zoning district, as indicated in the District regulations. Essential services are hereby defined to include and be limited to water, sewer, gas, wireline telephone and cable television, and electrical systems, including minor substations, lift stations, and similar sub-installations necessary for the performance of these services; provided, however, that this Section shall not be deemed to permit the location in a district of such establishments as electric or gas generating plants, sewage treatment plants, or water pumping or water aeration facilities from which they would otherwise be prohibited. Telecommunications towers, as defined in Section 5-13A of this Ordinance, shall not be considered essential services, and shall not be regulated as such, but instead shall be regulated according to Section 5-13A herein.

Where permanent structures are involved in providing such services, such structures shall conform insofar as possible to the character of the district in which the property is located, as to architecture and landscaping characteristics of adjoining properties.

5-13A Telecommunications Towers and Antennas for Wireless Communications (2001-155)

5-13A-0. Violation Declared.

It shall be a violation of this ordinance to erect a tower of antenna for the provision of wireless telecommunications services in the City of Madison unless application therefor is made and granted in accordance with the terms and conditions of this ordinance.

5-13A-1 Definitions

For the purposes of this Section, the following words and phrases will have the indicated meanings:

Accessory use: A use incidental to, subordinate to, and subservient to the main use of the property.
Antenna: A transmitting and/or receiving device used for personal wireless services that radiates or captures electromagnetic waves, including directional antennas, such as panel and microwave dish antennas, and omni-directional antennas, such as whips, but excluding radar antennas, amateur radio antennas and satellite earth stations.
Guyed tower: A telecommunication tower that is supported, in whole or in part, by guy wires and ground anchors.
Microwave dish antenna: A dish-like antenna used to link wireless service sites together by wireless transmission of voice or data.
Monopole tower: A telecommunication tower consisting of a single pole or spire self -supported by a permanent foundation, constructed without guy wires and ground anchors.
Panel antenna: An array of antennas designed to concentrate a radio signal in a particular area.
Personal Wireless Service Facility: Any facility constructed for the purpose of sending or receiving cellular telephone transmissions in the range between 824 and 849 megahertz, or 869 and 894 megahertz; and any facility constructed for the purpose of sending or receiving Personal Communications Service transmissions in the 1850 - 1990 megahertz range.
Self-support/lattice tower: A telecommunication tower that is constructed without guy wires and ground anchors.
Stealth facility: Any telecommunications facility which is designed to blend into the surrounding environment. Examples of stealth facilities include architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and telecommunication towers designed to look like light poles, power poles or trees.
Telecommunication tower: A monopole constructed as a freestanding structure, designed to support one or more antennas used in the provision of personal wireless services.
Whip antenna: A cylindrical antenna that transmits signals in three hundred sixty (360) degrees.

All terms not defined herein shall be defined as directed in the Telecommunications Act of 1996, Public Law 104-104, as codified in the United States Code.

5-13A-2 Regulation of Freestanding Telecommunications Towers.

(1) Freestanding telecommunication towers may be permitted in any zoning district on land or structures owned by or under the control of the City or

any instrumentality thereof, including the Madison Water and Wastewater Board. On property owned or controlled by the city, the city shall authorize the application and use of city property after the applicant executes a lease agreement acceptable to the city. The city shall have no obligation whatsoever to execute such lease even if the applicant can meet the criteria set forth herein. No telecommunications tower shall be erected on land owned by the City or any instrumentality of the City, without review by the City Planning Commission, in accordance with the provisions of Section 11-52-11, Code of Alabama.

(2) Stealth or camouflaged towers, such as towers camouflaged as trees, power poles, or flagpoles, may be permitted in any zoning district by Special Exception permit.

(3) All other (nonstealth) telecommunications towers may be permitted in any nonresidential district by Special Permit Exception only.

(4) Only monopole telecommunication towers may be permitted. No guyed, lattice, or other telecommunications tower may be permitted.

(5) All freestanding telecommunications towers must meet the following minimum standards:

(a) No tower shall be permitted to exceed its loading capacity.

(b) All towers shall have the capacity to permit at least 2 users, and all towers in excess of 100 ft. shall have the capacity to permit at least three users. .

(c) Height/setbacks and related location requirements.

1. The height of a telecommunications tower shall not exceed one hundred and fifty (150) feet in any nonresidential district, nor one hundred (100) feet in any residential district. Tower height shall be measured from the undisturbed natural ground.

2. Telecommunication towers shall be set back from all property lines a distance of at least 1 1/2 times the height of the tower, but in any case shall conform with the setbacks established for principal structures in the underlying zoning district.

3. Telecommunication towers permitted in a nonresidential district shall not be located closer than one thousand (1000) ft. to any residential district.

4. Monopole, or lattice telecommunication towers shall not be located within one-half mile (2,640 ft.) radially of any existing telecommunication tower.

5. Telecommunications towers may be permitted on land leased for that purpose even if there is an existing principal structure on the same lot of record. All buildings and other structures located on the same lot as a telecommunication tower shall conform with the setbacks established for the underlying zoning district.

(d) Aircraft hazard. Prior to the issuance of a building permit by the inspection division, department of community development, the applicant shall provide evidence that the telecommunication towers and/or antennas are in compliance with Federal Aviation Administration (FAA) regulations.

(e) Approval required from other governmental agencies. Each application for a telecommunication tower may be required to include written approval or a statement of no objection from other federal or state agencies that may regulate telecommunication tower siting, design, and construction.

(f) FCC emissions standards; other federal standards. All proposed telecommunication towers shall comply with current radio frequency emissions standards of the Federal Communications Commission. Additionally, all towers and antennas shall comply with all applicable regulations of the National Environmental Policy Act, the Clean Water Act, the Clean Air Act, and all other applicable Federal laws and regulations.

(g) The tower shall in all respects conform to applicable standards of the Standard Building Code as adopted by the City, and any associated regulations including Electronic Industry Association/ Telecommunications Industry Association standard for wind load. At a minimum, all towers shall be able to withstand a 150 mph wind.

(h) Buffering.

1. An eight (8) foot fence as measured from the finished grade of the site, shall be required around the base of any tower, around any accessory buildings or structures

2. Landscaping, consistent with the requirements of Section 5-18 of the Zoning Ordinance, shall be installed around the entire perimeter of any fence or wall. All landscaping must be of a size and species expected to reach at least 10 ft. in height within three years. Additional landscaping may be required around the perimeter of a fence or wall if deemed necessary to buffer adjacent properties. The city may require landscaping in excess of the requirements of the city code in order to enhance compatibility with adjacent residential and non-residential land uses. Landscaping shall be installed on the outside of the perimeter fence or wall.

(i) “High Voltage” and "No Trespassing" warning signs.

1. If high voltage is necessary for the operation of the telecommunications tower or any accessory structures, "HIGH VOLTAGE - DANGER" warnings signs shall be permanently attached to the fence or wall and shall be spaced no more than forty (40) feet apart.

2. "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than forty (40) feet apart.

3. The letters for the "HIGH VOLTAGE - DANGER" and "NO TRESPASSING" warning signs shall be at least six (6) inches in height. The two (2) warning signs may be combined into one sign. The warning signs shall be installed at least five (5) feet above the finished grade of the fence.

4. The warning signs shall be attached to freestanding poles if the content of the signs would otherwise be obstructed by landscaping.

5. Signs required by this Section shall not be required to conform to Chapter 7 of the Zoning Ordinance (Sign Regulation)

(j) Equipment storage. Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the telecommunication tower, unless required for repairs to the tower which are actively being made.

(k) Removal of abandoned or unused facilities. All abandoned or unused telecommunication tower facilities shall be removed by the tower owner/operator within ninety (90) days of the cessation of use. A tower shall be considered abandoned if use has been discontinued for one-hundred eighty (180) consecutive days. Telecommunication towers being utilized for other purposes, including but not limited to light standards and power poles, may be exempted from this provision.

(l) Signs and advertising. The use of any portion of a tower or related structures for signs or advertising purposes, including company name, banners, streamers, etc., is strictly prohibited.

(m) Accessory buildings or structures. All accessory buildings or structures shall meet all building design standards as listed in this Code, and in accordance with the provisions of the Building Code and related codes as adopted by the City. All accessory buildings or structures shall require a building permit.

(n) Colors. Except where superseded by the requirements of other county, state, or federal regulatory agencies possessing jurisdiction over telecommunications towers, telecommunications towers shall be painted or constructed in neutral colors, such as non-contrasting gray, designed to blend into the surrounding environment. Stealth towers shall be painted an appropriate color to blend with surroundings subject to the approval of the City.

(o) Non-interference. Each application to allow construction of a telecommunication tower shall include a certified statement from a registered professional engineer that the construction and placement of the tower, will not interfere with public safety communications.

(p) All towers and antennas shall use power generated offsite as their primary power source. On-site generators shall be permitted for emergency backup purposes only. Permanent power service lines between the distribution line and the tower shall be underground.

(q) All towers shall be constructed to minimize visual impact, and shall not negatively impact the values of adjoining and nearby properties.

(r) All towers shall be designed to be sensitive to and in harmony with the context of the location at which they are erected.

(s) Towers shall not be lighted unless required by the FAA. If lighting is required, the applicant shall employ the minimum lighting that will meet FAA requirements. In no case may a strobe light be used after

sunset. All site lighting, if any, shall conform to section 5-22 of the zoning ordinance.

(6) Inspections.

(a) Telecommunication tower owners shall submit a report to the city Inspection division, certifying structural and electrical integrity, at least once every five years.

(b) Inspections shall be conducted by an engineer licensed to practice in the State of Alabama. The results of such inspections shall be provided to the Inspection division. Based upon the results of an inspection, the building official may require repair or removal of a telecommunication tower.

(c) The Inspection division may, at its option, conduct periodic inspections of telecommunication towers to ensure structural and electrical integrity. The owner of the telecommunications tower may be required by city to have more frequent inspections should there be reason to believe that the structural or electrical integrity of the tower is jeopardized.

(7) Telecommunications towers are prohibited when a proposed or existing principal use on the same lot of record includes the storage, distribution, or sale of volatile, flammable, explosive, or hazardous wastes such as LP gas, propane, gasoline, natural gas, and corrosive or dangerous chemicals.

(8) Existing towers. Notwithstanding the above provisions of this section, towers in existence as of January 1, 1997, may be replaced with a tower of equal or less visual impact after approval by the director of community development. However, if the proposed new tower would not be consistent with the minimum standards under this section, replacement must be approved by the City Council.

5-13A-3. Regulation of Wireless Antennas

(1) Antennas shall be permitted as follows:

a. Antennas may be placed on any existing freestanding telecommunications towers by right as a permitted use, not to exceed the number that the tower was designed to accommodate safely. Provided, however, that any new tower and its initial

antenna(e) shall be required to undergo review pursuant to this ordinance as a single application.

(b) Stealth rooftop antennas, stealth building mounted antennas, or antennas mounted on billboards, may be permitted by right in the M-1 or M-2 District, or as a Special Exception use in any other zoning district.

(c) Non-stealth rooftop, billboard-mounted, or building mounted antennas shall only be permitted as a Special Exception use in the M-1 and M-2 Districts only.

(2) Minimum standards.

(a) All antennas shall be subject to the following minimum standards:

1. No commercial advertising shall be allowed on an antenna;

2. No signals, lights, or illumination shall be permitted on an antenna, unless required by the Federal Communications Commission or the Federal Aviation Administration;

3. Any related unmanned equipment building shall not contain more than seven hundred fifty (750) square feet of gross floor area or be more than twelve (12) feet in height; and

4. If the equipment building is located on the roof of a building, the area of the equipment building shall not occupy more than twenty-five (25) percent of the roof area.

5. Each application for an antenna, except for an antenna permitted by right, shall contain a rendering or photograph of the antenna including, but not limited to, colors and screening devices.

(b) Building rooftop or billboard-mounted non-stealth antennas shall be subject to the following minimum standards:

1. Antennas may not extend more than twenty (50) feet above highest point of a roof or billboard. Stealth antennas attached to but not above rooftop structures shall be exempt from this provision.

2. Antennas, and related equipment buildings, shall be located or screened to minimize the visual impact of the antenna upon adjacent properties and shall be of a material or color

which matches the exterior of the building or structure upon which it is situated;

3. No commercial advertising shall be allowed on an antenna;

4. No signals, lights, or illumination shall be permitted on an antenna, unless required by the Federal Communications Commission or the Federal Aviation Administration;

5. Any related unmanned equipment building shall not contain more than seven hundred fifty (750) square feet of gross floor area or be more than twelve (12) feet in height; and

6. If the equipment building is located on the roof of the building, the area of the equipment building shall not occupy more than twenty-five (25) percent of the roof area.

(3) Antenna types. To minimize adverse visual impacts, stealth antenna types shall be preferred. If a non-stealth antenna is proposed, the application shall be required to demonstrate, in a technical manner acceptable to the city staff, why the stealth antenna cannot be used for the particular application. This provision does not preclude a combination of more than one type of antenna.

(4) Antenna dimensions. Antenna dimensions shall be approved by the Director of Community Development as required by existing technology. A statement shall be submitted, prepared by a professional registered engineer licensed to practice in the State of Alabama, to certify the need for the required dimensions.

(5) Aircraft hazard. Prior to the issuance of a building permit by the Inspection division, department of community development, the applicant shall provide evidence that the telecommunication towers or antennas are in compliance with Federal Aviation Administration (FAA) regulations. Where an antenna will not exceed the highest point of the existing structure upon which it is to be mounted, such evidence shall not be required.

5-13A-4. Shared use of communication towers.

(1) Notwithstanding any other provision of this article, to minimize adverse visual impacts associated with the proliferation and clustering of telecommunication towers, co-location of facilities on existing or new towers shall be required, unless the applicant can demonstrate that such collocation is not possible.

(2) Co-location of communication antennas by more than one provider on existing or new telecommunication towers shall take precedence over the construction of new single-use telecommunication towers. Accordingly, each application for a telecommunication tower shall include the following:

(a) For each existing tower within a two mile radius of the proposed new tower site, a written evaluation of the feasibility of sharing a telecommunication tower shall be performed. The evaluation shall analyze all of the following factors:

1. Structural capacity of the tower or towers;

2. Radio frequency interference;

3. Geographical service area requirements;

4. Mechanical or electrical incompatibility;

5. Inability or ability to locate equipment on the tower or towers;

6. Availability of towers for co-location;

7. Any restrictions or limitations of the Federal Communications Commission that would preclude the shared use of the tower.

8. Additional information requested by the city.

(b) The city may deny an application if an available co-location is feasible and the application is not for such co-location.

(3) For any new telecommunications tower, the owner of the tower shall provide notice of the location of the telecommunication tower and the tower's load capacity to the City and all other wireless providers licensed to do business in Madison.

(4) An applicant who wishes to attach any antenna to an existing tower shall not be required to apply for a building permit to do so. However, the applicant must apply for a co-located antenna permit demonstrating compliance with this ordinance. Section 5-13A-7

5-13A-5. Applications - General

(1) Except as specifically stated otherwise, all applicants for an antenna or antenna tower must secure a site plan certificate, building permit, electrical permit, and/or other appropriate permits prior to construction of the antenna or tower.

(2) The city shall act promptly on any application submitted in accordance with the provisions of this Section. The reasons for rejecting any application filed under these provisions shall be set forth in writing and based on substantial evidence contained in a written record. The rejection of an application under this article does not prevent a person from filing an application for a zoning variance in accordance with applicable law.

(3) The issuance of a permit is not a lease and no municipally-owned property may be used without a lease agreement with the city. The city may, as appropriate to protect its property and the public interest, establish additional requirements beyond the minimum requirements of a permit for municipally-owned property. This provision further does not preclude the city from issuing a letter of interest for the purposes of leasing sites on designated city property for the construction and installation of personal wireless service facilities.

5-13A-6 Procedures for Application – Freestanding Towers (Including Initial Antenna(e))

Application for a freestanding telecommunications tower with its initial antenna(e) is a two-track process, requiring a Special Exception Permit issued by the Zoning Board of Adjustments and Appeals pursuant to Article X of the Zoning Ordinance, and a site plan certificate issued by the Planning Commission pursuant to Article V of the Zoning Ordinance. No freestanding telecommunications tower shall be erected that has not been issued both such permits, in addition to applicable building, electrical, and trades permits.

(a) Special Exception Permit Submission Requirements. The applicant shall submit the following to the Community Development Department, which shall review the application for completeness and forward the complete application to the Board of Adjustments and Appeals:

a. The applicant shall complete a Special Exception Permit application on forms available from the Community Development Department, including applicable fees.
b. The applicant shall submit evidence of compliance with Sections 5-13A-2 and 5-13A-4 under Seal of a Registered Engineer licensed to practice in Alabama. Such evidence shall include drawings, surveys, calculations, written certifications and other applicable forms of evidence demonstrating such compliance.

c. The applicant shall submit data in support of the application that addresses standards enumerated in Sec. 10-8 (6) of the zoning ordinance
d. A copy of any land lease(s) for the tower
e. The following data shall also be submitted under Engineer's Seal:
    i. The number of initial and future antennas anticipated to be mounted to the tower
    ii. The frequency, modulation and class of service of the tower with its initial antenna(e)
    iii. Direction of the maximum lobes and associated radiation of the tower with its initial antenna(e)
    iv. Transmission and maximum effective radiated power of the tower with its initial antenna(e)
    v. Propagation studies of the proposed site and all adjoining proposed, in-service or existing sites, including propagation model specification (description of model, methodology, and databases, e.g., terrain databases)
    vi. Latitude, longitude, ground elevation, initial antenna height(s) and type(s), azimuths of sectored sites, EIRP, and coverage objectives defined by a signal strength threshold
    vii. A description and depiction of the tower and initial antenna(e) and all related fixtures, including lighting, materials, color, and height above natural grade.
    viii. Make and model of tower and initial antenna(e)
    ix. A proposed maintenance schedule
    x. Certification that NIER levels do not exceed threshold levels adopted by the FCC
    xi. Certification that the tower with its initial antenna(e) will not cause interference with existing telecommunications devices
    xii. A copy of the FCC license applicable for the use of wireless telecommunications facilities
    xiii. A "fall zone" analysis demonstrating possible fall scenarios and property damage

(b) Site Plan Submission Requirements

The applicant shall comply with the provisions of Sec. 5-2 in applying for a telecommunications tower. The following data shall be submitted to the Community Development Department

1. all data required for the Special Exception Permit application
2. all data required by Section 5-2-4 of the Zoning Ordinance
3. any other data required by the Planning Commission to demonstrate compliance with the requirements of Sec. 5-13A-2 or 5-13A-4 of the ordinance, including visual simulations, balloon tests, color renderings, photographs of similar facilities, etc.
4. a statement detailing the public necessity for the facility addressing the requirements of Sec. 11-52-11, Code of Alabama.

5-13A-7 Application Procedures – Collocated Antennas on Existing Freestanding Towers

New antennas to be located on existing freestanding towers shall be permitted by right, subject to the following criteria:
(a) Section 5-13A-2 (1 – 3)
(b) Physical and performance specifications of the antenna as provided by the manufacturer
(c) The following data under Engineer's Seal:

1. The frequency, modulation and class of service of the antenna
2. Direction of the maximum lobes and associated radiation of the antenna
3. Transmission and maximum effective radiated power of the antenna
4. Make and model of antenna
5. A proposed maintenance schedule
6. Certification that NIER levels do not exceed threshold levels adopted by the FCC
7. Certification that the antenna will not cause interference with existing telecommunications devices
8. A copy of the FCC license applicable for the use of wireless telecommunications facilities

5-13A-8 Application Procedures – All other towers and antennas

Application procedures for all non-freestanding towers and non-collocated antennas shall be the same as the procedures specified in Sec. 5-13A-6 of this ordinance. All such applications shall be required to undergo site plan review pursuant to Sec. 5-2 of the Zoning Ordinance, and to obtain a Special Exception Permit pursuant to Section 10-8 of the Zoning Ordinance. Review Criteria shall be Sec. 5-13A-2 through 5-13A-6, and may include Sec. 11-52-11, Code of Alabama, provided that the Director of Community Development may exempt the applicant from certain provisions that do not apply to the particular application.

5-13A-9 Review.

(a) The City's Technical Review Committee shall perform a review of each application submitted pursuant to this ordinance for completeness, and shall make a report and recommendation to the appropriate review body based on its study of the application. The recommendation shall be based on substantial evidence contained in a written record.
(b) The Technical Review Committee may refer the application to a consulting engineer licensed to practice in the State of Alabama to review and verify any information contained therein. The consultant shall be given a maximum of 75 days to complete his report, during which the application shall be held pending.
(c) The application, and the engineer's report (if applicable) shall be forwarded to the appropriate Board for action within 4 months of its initial submittal. The board may then approve, deny, or pend the application for further information if such is warranted by the Technical Review Committee's or engineer's report.
(d) Review criteria for the application shall include all applicable provisions of this ordinance, the Zoning ordinance, the City's subdivision regulations (if any land is being subdivided in conjunction with the application) and Sec. 11-52-11, Code of Alabama.

5-13A-10 Fees

The following review fees shall be paid to the Community Development Department upon application:

(a) all fees required by Chapter 10 of the Zoning Ordinance applicable to Special Exception Permit Applications
(b) all fees required by Chapter 5 of the Zoning Ordinance applicable to site plan review
(c) The sum of $7500 in money order or certified check, to be held in escrow to reimburse the City for any fees and expenses paid to any outside consultant hired to advise on the application.
(d) Should the balance of the escrow account fall below $2500, the applicant shall be required to bring the balance up to $5000 within ten (10) days after notice by the City, or the consultant will be instructed to suspend his work and the application pended until the required deposit is made. Should the balance remain under $2500 thirty days after such notice, the application shall be forwarded to the appropriate board for disposition based on the information contained in the application and any other available information.
(e) Any excess funds not paid to the consultant(s) shall be returned to the applicant within 30 days after the application is disposed of.

5-132A-11

Outside Consultants

(a) The City may hire any outside consultant(s) of its choosing to review the application for any site plan or special exception permit required by this ordinance. The consultant shall be charged with studying and making a recommendation on said application, and developing and presenting to the City substantial evidence in support if its recommendation.

(b) The City shall establish an escrow account through the City Clerk's office to contain funds deposited by the applicant pursuant to Sec 5-13A-10(c) of this ordinance. The City shall pay the consultant for his work from periodic draws on said escrow account.

5-13A-12 Form of Decision; Notice

Any application disposed of pursuant to this ordinance shall be done so in writing, stating the reasons therefor and the evidence on which the decision was based. A notice of the decision shall be sent to the applicant, regular US first-class mail, within ten days after the decision.

Section 5-13B Accessory Electronic Communications Antenna Towers and Satellite Dishes in Residential Districts (ord. 97-161, 1-26-98)

5-13B-1 Definitions

a. Accessory electronic communication antenna tower: an accessory antenna structure erected to support one or more antennas for incidental use of the property such as amateur electronic communication reception/transmission, weather electronic communication reception, AM/FM/Short-wave reception, UHF/VHF reception, and similar applications customarily accessory to residential uses. Normally, one or more antennas are mounted on such a tower. However, the term "accessory electronic communication antenna tower" does not include wireless communications towers regulated by Section 5-13A of this ordinance, commercial broadcast towers for transmission of AM, FM, UHF, VHF, or signals in other commercial band, microwave transmission or reception towers, or any other antennas or towers not part of a use customarily considered accessory to a residence.

b. Accessory electronic communication antenna: an antenna erected for an incidental use of the property such as amateur electronic communication reception/transmission, weather electronic communication reception, AM/FM/Short-wave reception, UHF/VHF reception, and similar applications customarily accessory to residential uses. However, the term "accessory electronic communication antenna" does not include wireless communications towers regulated by Section 5-13A of this ordinance, commercial broadcast towers for transmission of AM, FM, UHF, VHF, or signals in other commercial

band, microwave transmission or reception towers, or any other antennas or towers not part of a use customarily considered accessory to a residence.

c. Satellite Dish: a satellite dish is a dish of any size, other than a direct broadcast satellite (DBS) dish as defined in the Federal Telecommunications Act of 1996, used to collect and receive satellite transmissions of television signals or other electronic data.

5-13B-2 Permitted Use

No more than one accessory electronic communication antenna tower, and no more than one satellite dish, may be erected on any single family residential lot smaller than two acres. For each additional full acre in the lot one satellite dish and one additional accessory electronic communication antenna tower may be erected.

5-13B-3 Prohibited Locations

a. No satellite dish or accessory radio antenna tower may be placed in the front yard. A variance to this requirement will be considered on a case-by-case basis by the Zoning Board of Adjustment and Appeals.

b. Any tower, antenna, satellite dish, or any support, guy wire anchor, or other related structure or element of a structure, which is placed in a City easement, must be removed by the property owner, at his own expense, within 72 hours after a request by the City or a utility provider authorized to use the easement. Neither the City nor any utility provider shall be responsible to restore or replace the structure after the work within the easement has been completed.

5-13B-4 Towers, Satellite Dishes and Antennas Attached to Buildings

Satellite dishes, accessory electronic communication antenna towers, and accessory electronic communication antennas that are designed to be attached to a building (i.e. use the building structure as the primary support base), including the principal structure, may be attached to any side thereof except the front. Satellite dishes, accessory electronic communication antenna towers and accessory electronic communication antennas that are attached to a building may not extend more than ten feet above the highest point of a roof (excluding chimneys, spires, cupolas, or other architectural features).

5-13B-5 Height Restrictions.

a. No accessory radio antenna tower, including any antenna, and other supporting structures in a residential district, may exceed 100 ft. in height, as measured from adjacent natural ground, unless a lower height limit is imposed by the operation of Federal Aviation Administration regulations, airport zoning regulations, or other applicable regulations. In furtherance of the City's interest in promoting aesthetics

and diminishing the negative impact of satellite dishes on such interest, no satellite dish exceeding 3 ft. in diameter may exceed 10 feet in height when mounted to the principal structure or to an accessory building in the rear yard.

b. No accessory electronic communication antenna tower using a principle or secondary structure as the primary support base, including antennas or any supporting structures in a residential district, may exceed the height of the highest point of the principal structure (excluding architectural features) by more than 10 ft. without a Special Exception Permit issued by the Zoning Board of Adjustment and Appeals pursuant to the standards, criteria, and procedures found in Sec. 10-8 of this Ordinance.

5-13B-6 Setbacks

The base of the antenna or satellite dish will be placed in the area defined as one half the distance between the center of the lot and the side and rear boundary lines of the property. The location of the antenna or dish will be confined to the back half of the property. When guy wires are required the attachment support base will not exceed the property boundary lines.

5-13B-7 Safety Screening.

Any satellite dish exceeding 10 ft. in diameter, and any accessory electronic communication tower or antenna must be secured by a 6 ft. tall security fence. However, an accessory electronic communications antenna tower with an “anti-climb” device shall not be required to construct such a fence or buffer and this device shall be described in the Tower Installation Permit Application.

5-13B-8 Other restrictions

a. Accessory electronic communication antennas may be affixed to any accessory antenna tower in any residential district with the restriction that the sum of all antenna wind loads will not exceed the tower’s maximum manufacturer’s specified wind load.

b. At the property line, electromagnetic radiation shall not exceed the "safe" levels specified in ANSI C95.1 as measured by ANSI C95.3 unless different standards are adopted by the Federal Communications Commission, in which case the latter shall control.

c. No signage or lighting shall be mounted on any accessory electronic communication antenna tower, except as required by the Federal Communications Commission or Federal Aviation Administration.

d. All accessory electronic communication antenna towers shall have a galvanized finish, or be painted silver, pale blue, or gray except to the extent that this requirement conflicts with Federal Communications Commission or Federal Aviation Administration requirements.

e. No tower shall be constructed in a location that will allow the antenna elements to be closer than 5 feet of overhead power lines to eliminate the hazard of electrical shock.

5-13B-9 Construction

a. All electrical equipment mounted to or used in conjunction with any accessory radio antenna tower or any satellite dish shall conform to Article 810, National Electric Code, 1996 Edition, as most recently amended.

b. When assembled from a pre-manufactured kit, all accessory electronic communication antenna towers and satellite dishes must be assembled according to manufacturer's instructions and specifications, which shall be made available to the Community Development Department upon request. Construction of any accessory communication antenna tower or any satellite dish from other than a pre-manufactured kit shall be constructed according to plans sealed by a registered professional engineer.

5-13B-10 Permits and Inspections

a. The installation of any accessory electronic communication antenna tower, antenna or any satellite dish shall require an electrical and/or building permit, as appropriate, which shall be issued by the Chief Building Official upon presentation of an approved permit application. This application will be reviewed by the Technical Review Board for compliance and will contain, as a minimum, the following information:

1. Property diagram showing the location of all building structures; the proposed tower or dish support base location including the guy wire support termination points, if required and the location of all overhead power lines, if applicable.

2. Manufacturer's documentation detailing wind load specifications for the tower and the tower support base construction requirements.

3. Type of tower (i.e. free standing or guy wire supported) and the projected height.

4. The number and size of each antenna attached to the tower and its wind load factor.

5. Detail of screening measures, if applicable.

6. Details of the planned "anti climb" device that will be installed if applicable.

7. Details of the installation of any accessory lighting devices requiring 110 volt or higher voltage and the reason for the device (i.e. security lighting).

b. The permit fee shall be $25 for a building permit and $25 for an electrical permit, if applicable.

c. No accessory radio antenna tower or any satellite dish shall be placed in use until inspected and approved by the Director of Community Development and the Chief Building Official of the City of Madison.

Section 5-14. Exclusion from Height Limits

The height limitations contained in this Ordinance do not apply to spires, belfries, cupolas, antennas, communication transmission towers, television and radio towers, water tanks, ventilators, chimneys, elevator shaft enclosures, solar energy collectors and equipment or other appurtenances usually required to be placed above the roof level and not intended for human occupancy; however, the heights of these structures or appurtenances thereto shall not exceed any height limitations prescribed by the Federal Aviation Agency or airport zoning regulations within the flight-approach zone of airports. Further, although exempted from structural height limitations, the above structures shall not significantly impair solar access of buildings or solar collector locations.

Section 5-15. Offstreet Parking Provision (Ord. 96-08)(Ord. 97-50)(Ord. 2000-237)

It is the intent of this Zoning Ordinance that the public interest, welfare, and safety requires that every building and use erected or instituted after the effective date of this Ordinance shall be provided with adequate offstreet parking facilities for the use of occupants, employees, visitors, customers, or patrons.

5-15-1 Minimum Space Requirement. Each and every separate individual store, office, residence, manufacturing establishment, or other business shall be provided with offstreet parking facilities as specified below unless this Ordinance makes specific provision to the contrary. (99-51, 6-14-99)

DWELLINGS & LODGINGS

Use	Spaces Required
Single and two-family dwellings	2 per dwelling unit
Subdivision Clubhouse	1 per 10 dwelling units in all phases of subdivision
□Apartments	

□Efficiency	1.0 spaces per unit
□One Bedroom	1.5 spaces per unit
□Two Bedrooms	2.0 spaces per unit
□Three or More Bedrooms	2.5 spaces per unit
□Clubhouse/Rental Office	5 spaces + one space per 50 units or fraction thereof
Boarding or rooming houses	2 plus .75 for each accommodation
Hotels and motels	1.2 for each room in addition to spaces required for residential facilities
Mobile homes (park/subdivision)	2 per mobile home
Assisted Living Facilities	1 per staff on maximum shift plus 0.5 per room

RETAIL TRADE

Department and variety stores	1 per 200 sq. ft. customer service area (CSA)*
Food and Drug stores	6+1 per 200 sq. ft. CSA over 1,000 sq. ft.
Furniture store, motor vehicle sales	1 per 500 sq. ft. gross floor area (GFA)
Motor vehicle sales (including Non-motorized vehicles such as Recreational vehicles and trailers)	1 per employee on maximum shift plus one per five acres gross plat area
Beverage stores	3+1 per 300 sq. ft. GFA over 500 sq. ft.
Radio & television sales and/or repair	1 per 200 sq. ft. CSA or 1 per 175 sq. ft. GFA, whichever is greater
Restaurants, drive-in & fast-food to take-out	1 per 100 sq. ft. GFA
Restaurants (except above)	1 per 50 sq. ft. CSA + 1 space per linear ft. at bar (if any)
Shopping Centers	5.5 per 1,000 sq. ft. of

	gross leasable area
Various speciality shops (camera, gifts, jewelry, etc.)	3+1 per 200 sq. ft. CSA over 500 sq. ft. or 1 per 275 sq. ft. GFA over 400 sq. ft., whichever is greater

SERVICES

Amusement establishments	1 per each 4 patrons (capacity)
Automobile service stations	3 per service bay and 1 each service vehicle and 1 each 2 employees
Banks or savings and loan companies	1 per 150 sq. ft. CSA
Barber and beauty shops	2 per chair and 1 per each 2 employees
Bowling alleys	5 for each lane, plus 1 additional space for each 2 employees, plus one per 100 square feet CSA devoted to other uses
Churches	1 per 4 seats
Clubs or lodges (private, non-profit)	1 per 50 sq. ft. of assembly area, plus one per employee on maximum shift
Funeral parlors or mortuaries	5 and 1 per seats in largest chapel
Hospitals and Sanitariums	1 per 2 beds, plus 1 per hospital or staff doctor, plus 1 per employee at maximum shift
Medical or dental clinics or offices	3 per treatment room and 2 each doctor or dentist
Nursing, convalescent, or rest	

homes	1 per 4 beds and 1 per each 2 employees
Offices, business or professional	1 per 300 sq. ft. GFA
Private Schools: Nursery school, day care center or elementary school	1 per employee and adequate offstreet area for pick-up and delivery of children
Non-boarding junior & senior high schools	1 per employee and 1 per each 8 students
Self-service laundries, dry cleaning	0.5 per machine
Theaters, auditoriums and other places of public assembly	1 per 4 seats

MANUFACTURING & WHOLESALE

Manufacturing	2+1 per 2 employees at maximum employment on a single shift and 1 per company vehicle*
Warehousing (general)	1 per 750 sq. ft. net leasable area
Wholesale establishments	2+1 per 3 employees and 1 per company vehicle

FOR USES NOT COVERED ABOVE, THE REQUIREMENTS LISTED BELOW ARE APPLICABLE:

Retail stores and service establishments	1 per 200 sq. ft. CSA or 1 per 275 sq. ft. GFA, whichever is greater
Other commercial and industrial	0.75 x maximum number of employees on premises at one time

*NOTE: Spaces required for company vehicles shall vary as to size so as to adequately accommodate the vehicle usually occupying the spaces.

5-15-2 Other Factors Determining Offstreet Parking Requirements

1. Fractional Spaces: When determination of the number of spaces required by this Ordinance results in a requirement of a fractional space, any fraction less than one-half (1/2) shall be disregarded and any fraction of one-half (1/2) or more shall require one (1) spaces.

2. Enlarged/Changed Use: From the effective date of this Ordinance, if such land, structures, or uses are enlarged, expanded, or changed, there shall be provided for the increment only of such land, structures, and uses enlarged, expanded or changed and maintained as herein required, at least the amount of offstreet parking space that would be required hereunder if the increment were a separate land, structure, or use. However, where a lot with an existing structure is cleared and a new structure is erected thereon, there shall be provided and maintained offstreet parking space as required herein.

3. Joint Use: When offstreet parking space is used jointly by two or more uses with different requirements, or two or more uses having the same requirement, an area shall be provided equal to the total of requirements of all the uses.

5-15-3 Offstreet Parking: Location. The required offstreet parking facilities shall be located on the same lot or parcel of land they are intended to serve, provided, however, that for other than residential uses, the Board of Adjustment may allow the establishment of such offstreet parking facilities within three hundred (300) feet of the premises they are intended to serve when (1) practical difficulties prevent the placing of the facilities on the same lot as the premises they are designed to serve; (2) the owner of the said parking area shall enter into a written agreement with the City with enforcement running to the City providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required; and (3) the owner agrees to bear the expense of recording the agreement and agrees that the agreement shall bind his heirs, successors, and assigns. The written agreement shall be voided by the City if other offstreet facilities are provided in accord with this Ordinance.

5-15-4 Vision Clearance at Intersections. Offstreet parking shall observe the provisions of Section 5-3 of this Ordinance.

5-15-5 Development and Maintenance of Offstreet Parking Facilities

1. Plans. An applicant for a building permit must submit plans showing the offstreet parking required by this Ordinance. These plans must show location, arrangement, and dimensions of the offstreet parking, turning spaces, drives, aisles, and ingress and egress in a manner satisfactory for the safety and convenience of pedestrian, as well as vehicular, traffic.

2. Size. Each space shall be at least ten (10) feet wide and eighteen (18) feet long.

3. **Nonresidential Driveways and Street Accesses (Ord. 2002-02, 2-25-02)**

(i) Application of this section; Violation declared.

(a) This section shall apply to all public arterial and collector streets, as depicted on the 2025 Major Street Plan of the 2001 Comprehensive Plan of the City, as may be amended from time to time, that are owned by or under the control of the City. State, Federal, and County roads shall not be subject to these regulations, but shall be subject to the regulations of the Alabama Department of Transportation or other appropriate authority.

(b) It shall be a violation of this ordinance to construct a driveway to connect abutting nonresidential land to a public street as described in subsection (a) without a permit therefor issued by the Planning Commission pursuant to this section.

(c) It shall be a violation of this ordinance to construct a driveway to connect any non-abutting land to a public street by crossing over the property of another without the permission of the property owner and a permit therefor issued by the Planning Commission pursuant to this section. Permission shall be evidenced by a written agreement with the property owner and shall be presented to the City.

(d) It shall be a violation of this ordinance to construct a median cut in or along a public street without a permit therefor issued by the Planning Commission pursuant to this section.

(e) The granting of a site plan certificate pursuant to Section 5-2 et. seq. of the Zoning Ordinance shall exempt the holder of said certificate from the driveway permitting requirements, but not the median cut requirements, of this section. However, all such site plans must conform to the design and other requirements of this section.

(ii) Design Criteria.

The design of driveways and off-street parking facilities serving any building or use other than single-family or duplex residential shall be regulated as follows:

(a) Minimum driveway width. Any plot with driveway access to a street shall have a minimum 12-foot-wide driveway for 1-way ingress or egress, and 26 ft. for two-way ingress or egress. Driveways shall permit traffic to enter and leave the plot simultaneously without conflict in aisles, parking or maneuvering areas. Maximum driveway width shall be 35 ft. The City Engineer may approve technical deviations to driveway width requirements.

(b) Maneuvering. The area within the plot to which a driveway provides access shall be of sufficient size to allow all necessary functions for loading, unloading and parking maneuvers to be carried out on the plot and completely off the street right-of-way. No parking row shall exceed 250 feet in length except where a parking row is adjacent to the building or property line.

(c) Header curbs. All driveways along streets with existing curbs shall be provided with concrete header curbs along the driveway radii.

(d) Reserved

(e) Types of driveways. Each driveway shall be classified as one of the following types and regulated accordingly:

1. Minor driveway. A minor driveway shall provide service for a maximum of average daily traffic of 500 vehicles, based on Institute of Transportation Engineers Trip Generation Rates. The minimum distance from the street right-of-way at any ingress or egress driveway to any interior service drive or parking space with direct access to such driveway shall be a minimum of 20 feet measured on a line perpendicular to the street right-of-way. Minor driveways shall provide minimum single-lane widths of 12 feet or double lane width of 26 ft., and provide minimum vehicle radii of 30 feet.

2. Intermediate driveway. An intermediate driveway shall provide for a maximum average daily traffic volume of 2,000 vehicles, based on Institute of Transportation Engineers Trip Generation Rates. The minimum distance from the street right-of-way line at any ingress or egress driveway to any interior service drive or parking space with direct access to such driveway shall be a minimum of 20 feet measured on a line perpendicular to the street right-of-way. Intermediate driveways shall provide minimum ingress lanes 14 feet wide and egress lanes 12 feet wide. Where left- and right-turn egress is allowed, dual egress lanes shall be provided with a minimum 4-foot separation from the ingress lane. Intermediate driveways shall provide minimum vehicle turning radii of 35 feet.

3. Major driveway. A major driveway shall provide for a minimum average daily trip volume of 5,000 vehicles, based on Institute of Transportation Engineers Trip Generation Rates. The minimum distance from the street right-of-way line at any ingress or egress driveway to any interior service drive or parking space with direct access to such driveway shall be 20 feet measured on a line perpendicular to the street right-of-way. Major driveways shall provide minimum ingress lanes 14 feet wide and egress lanes 12 feet wide. Where left- and right-turn egress is allowed, dual egress lanes shall be provided with a minimum 4-foot separation

from the ingress lanes. Major driveways shall provide minimum vehicle turning radii of 40 feet.

(f) Driveway signalization. Any driveway requiring a traffic signal shall conform to those warrants specified in the Manual on Uniform Traffic Control Devices, United States Department of Transportation, Federal Highway Administration, most recent edition, as it may be amended. The manual is adopted by reference, and a copy shall be maintained for public inspection in the office of the Community Development Department. The installation of any traffic signal under the jurisdiction of the city shall be subject to the accepted standards and approval of the city's traffic engineer.

(g) Location and spacing of driveways. The location and spacing of driveways shall be determined as follows:

1. Along local streets, access driveways to corner lots shall be located a minimum of 35 feet from the intersection of the projection of right-of-way lines to the centerline of the driveway, except as provided hereinafter.

2. Along arterial and collector streets, access driveways to corner lots shall be located a minimum of 150 feet from the intersection of the projection of right-of-way lines to the centerline of the driveway except as provided hereinafter.

2A. In the event that, due to lot size or location or for other reasons deemed sufficient by the Planning Commission, a corner lot is unable to construct access drives that are at least 150 ft. from the intersection, then the lot may be permitted to construct driveways at the following distances from the intersection:

Corner Clearance at Intersections With Restrictive Median

Access Minimum	Position Allowed (Feet)
Approaching intersection Right In/Out	115
Approaching intersection Right In Only	75
Departing intersection Right In/Out	125
Departing intersection Right Out Only	100

Without Restrictive Median

Access Minimum	Position Allowed (Feet)
Approaching intersection Full Access	125
Approaching intersection Right In Only	100
Departing intersection Full Access	125
Departing intersection Right Out Only	100

3. Along arterial and collector streets, as classified in the Comprehensive Plan, minimum acceptable spacing between double or multiple driveways on the same parcel shall meet the following criteria:

Table 1

Speed limit (mph)	Minimum separation (feet)
30 or less.....	125
31 to 35.....	245
36 to 45.....	440
Over 45.....	660

Distances between adjacent 1-way driveways with the ingress drive upstream from the egress drive may be $^{1}/_{2}$ the distance shown in Table 1.

4. Driveways shall be located in the most appropriate location, taking into account existing and proposed adjacent and opposing driveways and land use.

(h) Number of driveways.

1. One driveway shall be permitted for ingress and egress purposes to any plot.

2. A joint access driveway shall be considered as adequate access for any 2 adjacent plots and shall be encouraged. For a plot where more than 1 driveway is requested, the applicant shall submit a traffic report justifying the need, describing the internal circulation and parking system, and identifying the impact of the development of the plot and its proposed access facilities on the operation of the street system.

3. Two or more driveways entering the same street from a single plot may be permitted if all applicable requirements of this section are met.

(i) Ingress lanes.

1. Ingress left-turn lane requirements. A 12-foot-wide left-turn lane with appropriate storage and transition shall be provided at each driveway where the peak hour inbound left-turn volume is 30 vehicles or more. As an alternative, ingress left-turn lanes may be required when warranted according to a study performed by the project engineer, based on professionally accepted standards, and approved by the City Engineer.

2. Ingress right-turn lanes. For any plot, a 12-foot-wide right-turn lane with appropriate storage and transition shall be provided at each driveway where the highway average daily traffic exceeds 10,000 vehicles per day, permitted highway speeds exceed 35 miles per hour, and driveway volume exceeds 1,000 vehicles per day with at least 40 right-turn movements per hour during peak periods. For any plot, a right-turn lane as described in this paragraph shall be provided at each driveway where right-turn ingress volumes exceed 75 vehicles per peak hour. As an alternative, ingress right-turn lanes may be required when warranted according to a study performed by the project engineer, based on professionally accepted standards, and approved by the City Engineer.

(j) Required improvements to intersections impacted by development. Improvements to an intersection shall be required to be constructed by the developer of any plot where the development causes the intersection to be impacted by traffic generated as a result of the development. Intersection improvements shall be in accord with the requirements set forth in this section.

(k) Median openings. To assure traffic safety, capacity and control, median openings located within a trafficway corridor shall be spaced the maximum distance apart that will allow safe and adequate traffic circulation.

1. Median openings shall be permitted only by the Planning Commission and only where traffic studies justify the need, taking into consideration the following:

   a. Potential number of left turns into driveways;
   b. Length of frontage along the street right-of-way line of the property proposed to be served;
   c. Distance of proposed opening from adjacent intersections or other openings;
   d. Length and width of the left-turn storage lane as functions of the estimated maximum number of vehicles to be in the lane during peak hours;
   e. Traffic control, including signalization, that will be necessary at the median cut. If a traffic signal at a median cut is within 1,500 feet of another traffic signal, the 2 shall be coordinated; and
   f. Adopted design guidelines.

2. Public streets shall be given priority consideration for median openings.

3. All median openings shall include adequate storage and transition lanes, where warranted.

(l) Off-street vehicular circulation. An off-street facility shall have full internal vehicular circulation and storage. Vehicle circulation shall be completely contained within the facility, and vehicles located within one portion of the facility shall have access to all other portions without using the adjacent street system.

(m) Off-street truck maneuvering. Where the use of a plot includes a truck loading, unloading, parking or service facility, adequate space shall be provided such that all truck maneuvering is performed off the street.

(n) Off-street vehicle stacking areas. Adequate stacking capacity shall be required for both inbound and outbound vehicles to facilitate the safe and efficient movement between the street and the parking facility. An inbound reservoir shall be of sufficient size to ensure that vehicles will not obstruct the adjacent street, sidewalk and circulation within the facility. An outbound reservoir shall be required to eliminate backup and delay of vehicles within the facility.

(o) Special considerations and exceptions. In the case of special driveway needs such as service stations, drive-in banks or other high-volume traffic uses, or where property is of a nature that the requirements of this Code cannot be met, an applicant may submit a traffic engineering study requesting technical deviation from these requirements. The traffic engineering study shall be performed and certified by a registered professional engineer qualified in traffic engineering. The study will set forth all traffic operations and safety features and minimize the impact of the special driveway or technical deviation. Based upon the study, and upon the recommendation of the City Engineer, driveways may be approved by the Planning Commission where necessary and in such a manner as to minimize the impact on the adjacent street.

(iii) Administration.

(a) All applications for driveway and median cut permits shall be made to the Community Development Department, which shall bring the permit application to the Planning Commission along with a recommendation thereon at the Commission's next scheduled meeting. Only the Planning Commission shall

have the authority to grant any permit required by this section. The City shall collect a permit fee of $50.00 to process the application.

(b) The approval of a site plan certificate, site plan amendment, or other development order by the Planning Commission clearly depicting a proposed driveway shall serve as the required permit for any driveway so depicted, and no separate permit fee will be collected. Provided that, median cuts shall require the explicit approval of the Planning Commission by affirmative vote, and a separate permit fee will be collected.

(iv) Application to existing driveways and off-street parking facilities:

(a) Any driveway or off-street parking facility existing on the effective date of this ordinance, and which by the terms of this section has become a nonconforming driveway or off-street parking facility is hereby declared not to be in violation of this section, subject to the conditions following herein.

(b) In the event of an expansion of an existing use for which a nonconforming driveway and off-street parking facility has been constructed, the provisions of this section shall apply; and the expanded use shall make necessary compliance with the terms and conditions of this section.

(c) If an existing driveway or off-street parking facility can be brought into conformance with the requirements of this section by minor alterations to the site, then, if a change on the site is made which necessitates the issuance of a building permit, the adjustments and alterations shall be made on the site to conform with the provisions of this section.

4. Improvement.

(a) Surfacing, Marking, and Drainage.

All offstreet parking spaces required by this ordinance and intended for use by the public or by employees, and their access roads within the parking area and leading from the street to said area, shall be paved with an all-weather surface of asphaltic concrete, portland cement concrete or any equivalent material acceptable to the Administrative Officer, and maintained such that no dust will result from continued use. Spaces intended primarily for the parking or storage of heavy equipment, trucks (excluding pickup trucks), or other vehicles not classified as passenger cars by the National Highway Transportation Safety Board need not be paved; however, areas intended primarily for parking of such vehicles shall be spread with gravel of a size, weight and thickness acceptable to the City Engineer. All Spaces shall be arranged and marked so as to provide for orderly and safe parking. Drainage shall be provided to dispose of all surface water without crossing sidewalks.

(b) Barriers/Bumpers.

Except for parking areas provided for single-family and two-family units, suitable barriers or curbs shall be provided to protect sidewalks. Wheel or bumper guards shall be located so that no part of any vehicle shall extend beyond the parking area, intrude on pedestrian ways, or come in contact with walls, fences or plantings. As an alternative to requiring wheel stops, the Planning Commission may permit the widening of walks and landscaped areas to a minimum of six feet, where such widening will serve to protect walls, fences and landscaping in a substantially similar manner as wheel stops. Any increase in open space made necessary by the substitution of open space in lieu of wheel stops shall not be counted as open space in the calculation thereof for the project site, nor shall said areas be counted toward the minimum open space requirements for the zoning district in which the development is located. Areas of open space substituted for required wheel stops shall be identified on the site plan, and their cumulative area computed and noted on the site plan.

(c) Lighting.

Lighting for offstreet parking shall be adequate and so arranged as to direct the light away from any adjoining property in a residential district. Lighting shall conform with Section 5-22 of this Ordinance.

(d) Special rules for vehicle sales lots.

All lots used to store and display vehicles for sale, including but not limited to new and used cars, trucks, recreational vehicles, trailers, campers, boats, motor homes, shall be improved in accordance with Section 5-15-(4) of this ordinance. All such lots shall also be required to provide perimeter landscaping in accordance with Section 5-15-6 (5) (Perimeter Landscaping) of this ordinance.

(e) Special Rules for Porous Pavement (Ord. 2002-153)

As an alternative to conventional bituminous asphalt paving, offstreet-parking areas may be paved with GEOBLOCK® "Porous Pavement" or its equivalent, as approved by the City Engineer. Application and installation of porous pavement shall be in accordance with manufacturer's directions and shall conform to USEPA Circular EPA 832-F-99-023, Stormwater Technology Fact Sheet: Porous Pavement, which is available from the City Engineer's Office.

3.

Subsection 5-15-6. OFF-STREET PARKING AND VEHICULAR USE AREA (PVA) LANDSCAPING REQUIREMENTS

1. PURPOSE

(a) Require planting and preservation of trees and other landscape elements to improve the appearance of paved and unpaved off-street parking and vehicular use areas (PVAs);

(b) Establish criteria for off-street parking areas in order to protect and preserve the appearance, character, and value of surrounding properties, and thereby promote the general welfare, safety, and aesthetic quality of the City of Madison;

(c) Partition large PVAs with planting islands and peninsulas;

(d) Insulate public rights-of-way and adjoining properties from noise, glare, and other distractions originating from off-street PVAs;

(e) Provide safer vehicle and pedestrian circulation within off-street PVAs and along public rights-of-way;

(f) Protect streams and watercourses from excessive runoff and erosion, and to replenish underground water reservoirs by using natural drainage and infiltration systems.

2. SCOPE OF APPLICATION

(a) General Requirements and Landscape Plans - Any off- street PVA (or system of PVAs), totaling twenty (20) or more parking spaces or containing six thousand (6,000) square feet or more must be constructed in accordance with landscape plans complying with this subsection. Perimeter landscaping is required for all such PVAs; in addition, interior landscaping is required for PVAs of forty (40) or more parking spaces, or twelve thousand (12,000) or more square feet in area.

(b) Existing Paved or Unpaved PVAs - When a lawful paved or unpaved off-street PVA already exists at the effective date of this article, such area may continue until it is expanded by more than twenty-five percent (25%) of its existing parking capacity as calculated pursuant to this article at which time the entire PVA must be brought into conformity with requirements for new construction.

(c) Parking Garages and Underground PVAs - Only perimeter landscaping is required for parking garages; landscaping requirements for adjoining PVAs at or near the grade of surrounding land will be calculated separately. Wholly underground PVAs are exempt from the requirements of this article.

(d) Minimum compliance - The requirements of this subsection are minimum standards.

3. DEFINITIONS

Access Way - One or more driving lanes intended for use by vehicles entering or leaving a PVA.

Approving Authority - (for Landscape Plans) - The Zoning Officer of the City of Madison.

Berm - A planted or landscaped elevated ground area between two other areas, generally designed to restrict view and to deflect or absorb noise. Berms with ground cover that necessitates mowing shall have a slope not greater than one foot of rise per three feet of run.

Caliper - Trunk diameter of a tree used in landscaping, measured at breast height.

Crown - The branches and leaves of a tree or shrub with the associated upper trunk.

Deciduous Plants - Those that shed their leaves during their dormant season and produce new leaves the following growing season.

Evergreen Plants - Those that retain their leaves during their dormant season.

Ground Cover - Plants, mulch, gravel, and other landscape elements used to prevent soil erosion, compaction, etc.

Interior Landscaping - Treatment of grade, ground cover, vegetation, and ornamentation within a PVA.

Island - An interior landscaping feature surrounded on all sides by driving and/or parking surfaces.

Landscape Element - A plant material (living or non-living) or an ornamental material (river rock, brick, tile, statuary, etc.) differentiated from surrounding PVA surfacing materials.

Mulch - A material (pinestraw, bark chips, wood chips, etc.) placed on the ground to stabilize soil, protect roots, limit weed growth, and otherwise promote tree and shrub growth by simulating the role of natural forest leaf-litter.

Mulch Bed - An area, generally bordered by a retaining device, with a covering of mulch over the soil.

Off-Street Parking and Vehicular Use Area (PVA) - An area, other than on public right-of-way, designated for the parking and movement of vehicles.

Parking Garage - A structure used for parking of vehicles and having one or more parking levels above the grade of surrounding
land.

Parking Space - An area marked for the parking of one vehicle.

Peninsula - An interior landscaping feature attached on only one side to perimeter landscaping, buildings, etc., and surrounded on all other sides by PVA.

Perimeter Landscaping - Treatment of grade, ground cover, vegetation, and ornamentation between a PVA and adjoining properties and/or rights-of-way, but excluding landscaping between a PVA and buildings on the same property.

PVA - See Off-Street Parking and Vehicular Use Area.

Shrub - A woody plant, generally multi-stemmed, of smaller stature than a tree.

Stem - See trunk.

Tree - A woody plant, generally with no more than one or two principal stems.

Trunk - A principal upright supporting structure of a tree or shrub.

Underground PVA - A parking area completely covered by a structure or by grass or other landscaping elements.

Visibility Triangle - An area of critical visibility defined by Section 5-3 of this Ordinance in which landscaping is restricted in the interest of vehicular traffic safety.

4. GENERAL PVA LANDSCAPING REQUIREMENTS

Landscaping of PVAs when required shall be of two types as described below: Perimeter Landscaping and Interior Landscaping, and shall conform to landscape plans submitted and approved in accordance with the requirements of this subsection.

(a) Landscape Plan Requirements - A master site plan in sufficient detail to indicate the number of parking spaces, the overall amount of PVA area, the amount of interior landscaping area, and the extent of perimeter landscaping shall be submitted and approved before issuance of a building permit for any building served by a PVA; and a detailed plan shall be submitted and approved before the installation of landscape materials is begun. Landscape plans submitted under this subsection shall include information as listed below:

(1) General information, including date, north arrow, and scale of one inch to no more than fifty (50) feet; all property lines, locations of all existing and proposed easements and rights-of-way; existing and proposed topography, drawn at a maximum contour interval of five (5) feet and indicating drainage channels; the zoning designations of the site itself and all adjacent properties; the names, addresses, and telephone numbers of developers, architects, and owners of the property for which the plan is designed; and the name and business affiliation of the person preparing the landscape plans.

(2) Construction information, including the locations of buildings, parking spaces and vehicular use areas; utility fixtures, including light poles, power and service poles, above-ground pedestals (low voltage) and padmounted (high-voltage) fixtures, underground electrical, communications, and television cables and conduits; hose bibs, sprinkler systems, meters, control boxes, etc;

and the amount (square feet) of PVA and intended surface treatments; and the total amount (square feet) of interior landscaping in peninsulas and islands.

(3) Landscaping details, including the locations, caliper, species (common name), and intended treatment (move, remove, or save) of existing trees four inches (4") or larger in caliper; locations, dimensions and treatments of all perimeter and interior landscaping areas (island and peninsulas).

(4) A schedule of all new and existing plants proposed for landscaping, including size (caliper and height, container size, etc.), condition (bare-root, balled-and-burlapped, container-grown, or pre-existing), common names and botanical names (genus, species, and variety) of trees, shrubs, and ground cover, and the type and amount of turf grasses.

(5) If items (1) - (4) immediately above are complied with to the satisfaction of the Department, then this document may be used to satisfy the Tree Plat Requirement (Section 16-40, Municipal Code of Ordinances) of the Tree Preservation Ordinance.

5. PERIMETER LANDSCAPING REQUIREMENTS

For any PVA of twenty (20) or more parking spaces or totaling six thousand (6,000) square feet or more, perimeter landscaping according to these standards must be provided within the property lines between the PVA and adjoining properties and public rights-of-way within 50 ft. of the PVA. Planting areas existing in the public right-of-way or on adjoining property shall not count toward the required perimeter landscaping area.

(a) Perimeter landscaping areas shall be at least five (5) continuous feet in depth, excluding walkways, measured perpendicularly from the adjacent property line or right-of-way to the back of curb or pavement edge.

(b) Access ways through perimeter landscaped areas, between PVAs and public rights-of-way and between adjacent PVAs, shall conform to the following standards:

Type of Accessway	One-Way	Two-Way
Maximum width*	30 feet	35 feet

* The width of access ways may be subtracted from the perimeter dimension used in determining the number of trees required.

** Access ways for sites must have specific approval from the City Public Works Department, City Planner, and (if fronted on a state highway) the State of Alabama Highway Department.

(c) Perimeter landscaping shall include at least an average of one (1) tree and six (6) shrubs per full fifty (50) linear feet of perimeter requiring perimeter plantings (less access ways); shrubs are optional in areas where a berm at least three (3) feet in

height is used. Trees and shrubs shall be well distributed, though not necessarily evenly spaced.

(d) Landscaping at driveways and street intersections shall conform to Section 5-3 of this Ordinance; and provide at least fifty percent (50%) opacity within one year of building occupancy.

6. INTERIOR LANDSCAPING REQUIREMENTS

Planting islands and/or peninsulas shall be provided for any PVA of forty (40) or more parking spaces or twelve thousand (12,000) or more square feet (not including the area of perimeter landscaping and not including the area of any plantings between the parking lot and buildings), with dimensions and arrangements as given below:

(1) The minimum area of required interior landscaping shall be determined by the following formula:

No. of Parking Spaces x 18 = Min. Sq. Ft. of Interior Landscaped Area.
(Example: Fifty parking spaces x 18 = 900 sq. ft. interior landscape area)

(2) Each island or peninsula, to count toward the total interior landscape requirement, shall be at least one hundred (100) square feet in area; however, the maximum contribution of any individual island or peninsula to the total interior landscaping requirement shall be one thousand (1000) square feet.

(3) Islands and peninsulas must be at least five (5) feet in their least dimension, measured from back of curb to back of curb.

(4) Islands and peninsulas in PVAs shall be as uniformly distributed as practicable, to subdivide large expanses of parking areas, to regulate traffic flow, to protect pedestrians, and to permit access by emergency vehicles. When practicable, islands and/or peninsulas shall be placed at the ends of rows of parking spaces or between the circulation drives and parking rows, to channel traffic safely around the parking areas and to demarcate parking rows. No more than ten adjacent parking spaces may be placed side-by-side, without an intervening landscaped planter island or peninsula.

(5) The interior landscaped area shall contain at least an average of one (1) tree and four (4) shrubs per two hundred (200) square feet of landscaped area. Each island or peninsula shall contain at least one tree or three shrubs.

7. CREDIT FOR EXISTING PLANT MATERIALS

Each existing tree meeting the following criteria may count, at the option of the owner, for one and one-half (1 1/2) of the trees in its class (interior or perimeter) required in this section if other landscaping requirements are met, and if it

(a) Has a minimum caliper of four inches

(b) Is not one of the following species hereby determined to be unacceptable for parking lot landscaping (these are to be considered nuisance trees in the meaning of the Tree Preservation Ordinance when located in the PVA):

LARGE TREES

Boxelder	Native elms
Silver maple	(American, winged, cedar,
Tree-of-Heaven	slipper, and September)
Catalpa	Colorado blue spruce
Sycamore	Red spruce
Cottonwood	Live oak
true poplars	Laurel oak

MEDIUM TREES

Camphor	Princesstree
Cutleaf European	(Paulownia)
birch	Slash pine
Silktree (mimosa)	Eastern white pine
Chinaberry	Willows
Yellowwood	Sassafras
Mulberry	Siberian elm

SMALL TREES

Summacs

(c) Is at least two (2) feet from the nearest planned curb or standard protective wheel stop and is within a planned planting of at least one hundred (100) square feet;

(d) Has a live crown at least thirty percent (30%) of the total tree height and is free from serious root, trunk, and crown injury;

(e) Is indicated on the landscaping plan as a tree "to be saved;" and

(f) Is situated so that it can be incorporated into a planned perimeter landscaping area, island, or peninsula with minimal grade cut or fill (less than 18 inches); and is protected during all prelandscaping phases of construction by a durable physical barrier excluding all vehicles, equipment, materials, and activities from the area that is to become a part of this landscaped area.

(g) In the case of a conflict between this ordinance and the Tree Preservation Ordinance, this ordinance shall control if the area in question is inside a PVA, and the Tree Preservation Ordinance will control if not, unless the Tree Preservation Ordinance does not apply for any other reason.

8. INSPECTION CHECKLIST

A checklist generally reflecting the requirements of this article shall be devised by the Community Development Department and shall be kept up to date, used in reviewing landscape plans, and made available to interested parties as a supplement to administration of this article.

9. PLANT MATERIALS AND INSTALLATION REQUIREMENTS

Trees and Shrubs - All trees and shrubs planted (in addition to any existing trees allowed under "Existing Plant Materials") in required perimeter and interior landscaped areas shall:

(a) (For trees) Be of species other than those determined by this section as unacceptable for parking lot landscaping.

(b) (For trees and shrubs) Conform to the minimum size standards in Table l, based on the American Standard for Nursery Stock, ANSI Z60.l-l980, published by the American Association of Nurserymen and approved by the American National Standards Institute on October 27, l980, as follows:

TABLE 1 - MINIMUM SIZE STANDARDS FOR PLANTING STOCK

Shade and Flowering Trees	Min. Size Requirements
Type l, Shade trees (e.g. Red maple, tulip poplar)	2.5" caliper, 12 ft. height range, with l6 ft. max. height
Type 2, Shade trees (e.g. Goldenrain tree, Southern Magnolia)	l.5" caliper, 6'8" to 8'0" height range, with 9'4" max. height
Type 3, Small upright trees (e.g. Redbud, Crabapple)	1" caliper, 6 to 7 ft. height range
Type 4, Small spreading trees (e.g. Flowering Dogwood, Star Magnolia)	5 to 6 ft. height range
Coniferous Evergreens	
Type 4, Pyramidal (e.g. Deodar Cedar, Pine species)	5 to 6 ft. height range
Shrubs	

All classes	Perimeter landscaping: 24" min. height Interior landscaping: 15" min. height and 15" min. spread

(c) (For trees and shrubs) Be planted within a bed of mulch or ground cover other than turfgrass, or be protected by some barrier to damage from vehicles and maintenance equipment.

(d) (For trees) Be spaced no closer than ten (10) feet to count toward the required ratio between perimeter and number of trees; such trees need not be evenly spaced along perimeter landscaping areas, and trees in excess of the minimum requirement may be closer than ten (10) feet apart.

10. GRASS OR OTHER PERMANENT GROUND COVER shall be installed and maintained on all parts of each landscaped area.

Effective measures shall be taken to control erosion and storm water runoff through the use of mulches, ground cover plants, erosion-control netting, etc.

Ground cover may include shrubs and low-growing plants such as Liriope, English ivy (Hedera helix), periwinkle (Vinca minor), and similar materials. Ground cover may also include nonliving organic materials such as bark or pinestraw, and inorganic materials such as pebbles, crushed rock, brick, tile, and decorative blocks; however, inorganic materials shall not make up more than ten percent (10%) of the landscaped area.

11. INSTALLATION REQUIREMENTS

(a) Required landscaped areas adjacent to parking areas shall be protected by fixed curbing or other permanent wheel stops along all sides exposed to parked or moving vehicles.

(b) When possible, trees should be located on extensions of parking stall lines to minimize bumper, exhaust, and engine heat damage to trees.

(c) The maximum recommended distance from any part of a required landscaped area to the nearest hose bib or other irrigation water supply fixture shall be one hundred fifty (150) feet, except where built-in irrigation systems are provided.

(d) Synthetic or artificial material in imitation of trees, shrubs, turf, ground covers, vines, or other plants shall not be used in lieu of plant requirements in this ordinance.

(e) Hedges, walls, and berms, though not required, are encouraged to help minimize the visual impact of PVAs. Berms with ground cover that necessitates mowing shall have a slope not greater than one (1) foot of rise per three (3) feet of run.

(f) The use of permanent broad-area mulch beds is encouraged to increase absorption of surface water, retard erosion, runoff, and stream siltation, protect tree roots and stems, and foster tree health.

(g) Planting dates recommended by the City of Madison are shown in Table 2.

TABLE 2 - RECOMMENDED PLANTING DATES

Type of Plant Materials	Normal Planting Dates
Non-container grown, deciduous	October 1 to April 1
Non-container grown, other	October 1 to May 1
Container grown, all	Year-round, if suitable precautions are taken to protect the planting stock from extremes of moisture and temperature; if there is a doubt, obtain a variance or a performance bond.

(h) Landscaping must be designed to be compatible with existing and planned overhead and underground electrical, communications, and television cables and conduits, public water supply lines, and storm and sanitary sewer lines.

12. MAINTENANCE

The owner, lessee, or his agents shall be responsible for providing, maintaining, and protecting all landscaping in a healthy and growing condition, and for keeping it free from refuse and debris. All unhealthy and dead materials shall be replaced within one year after notification, or during the next appropriate planting period, whichever comes first.

13. VARIANCES

The Board of Adjustment may grant a written variance from requirements of this subsection in extraordinary circumstances that do not permit full compliance with this subsection, provided the variance will accomplish the objectives of this ordinance.

14. NOTICE OF INSTALLATION

Upon the beginning of installation of plant materials required by this subsection, the property owner or developer shall notify the Chief Building Inspector. The Chief Building Inspector will require correction of conditions contrary to the requirements of this subsection and replacement of plant materials that are dead, diseased, damaged, or planted so as to kill or injure the plants, or that present a hazard to traffic or pedestrians.

15. BONDING

No certificate of occupancy shall be issued until the provisions of this subsection have been met or a performance bond, letter of credit or certified check has been posted. When circumstances preclude immediate planting, a certificate of occupancy may be granted after (1) the owner or developer has completed all curbing, irrigation systems, and other construction preliminary to planting, and (2) the property owner or developer posts a corporate surety bond, letter of credit, or cashier's check with the City Clerk in an amount equal to one hundred ten percent (110%) of the cost of the total required planting, including labor. Such bond shall be made payable to the City of Madison. Landscaping must be completed and approved within six months (180 calendar days) after a certificate of occupancy is issued in order to redeem the bond.

16. INSPECTION

The Building Inspector shall make inspections as necessary pursuant to the subsection and shall initiate appropriate action to bring about compliance with it. Upon becoming aware of any violation of the provisions of this article, the Chief Building Inspector shall serve written notice of such violation upon the person(s) responsible for compliance. No penalty shall be assessed until the expiration of the bond, if one has been posted, or otherwise until thirty (30) days after notification of violation(s).

Section 5-16. Offstreet Loading Provisions

Offstreet loading facilities are required by this Ordinance so that vehicles engaged in unloading will not encroach on, or interfere with, the public use of streets and alleys and so that adequate space is available for the unloading and loading of goods, and materials.

5-16-1 Minimum Space Requirement. Offstreet loading spaces shall be provided and maintained as follows:

(a) Each retail store, storage warehouse, wholesale establishment, industrial plant, factory, freight terminal, market, restaurant, mortuary, laundry, dry cleaning establishment, or similar use which has an aggregate floor area of:

Sq. Ft.		Sq. Ft.	No. of Spaces
Over 5,000	But Not Over	25,000	1
25,000		60,000	2
60,000		120,000	3
120,000		200,000	4
200,000		290,000	5

Plus one additional offstreet loading space for each additional 90,000 sq. ft. over 290,000 sq. ft., or major fraction thereof.

(b) For each multiple-family dwelling having at least twenty (20) dwelling units: one (1) space.

(c) For each auditorium, convention hall, exhibition hall, museum, motel, hotel, office building, sports arena, stadium, hospital, sanitarium, welfare institution, or similar use which has an aggregate floor area of:

Over 10,000 sq. ft., but not over 40,000 sq. ft.: one (1) space; plus for each additional 60,000 sq. ft., over 40,000 sq. ft. or major fraction thereof: one (1) space.

5-16-2 Other Factors Determining Offstreet Loading Requirements

(a) Fractional Spaces: When determination of the number of spaces required by this Ordinance results in a requirement of a fractional space, any fraction less than one-half (1/2) shall be disregarded and any fraction of one-half (1/2) or more shall require one space.

(b) Enlarged/Changed Use: From the effective date of this Ordinance, if such land, structures, or uses are enlarged, expanded, or changed, there shall be provided for the increment only of such land, structures, and uses enlarged, expanded or changed and maintained as herein required, at least the amount of offstreet loading space that would be required hereunder if the increment were a separate land, structure, or use. However, where a lot with an existing structure is cleared and a new structure constructed thereon, there shall be provided and maintained offstreet loading space as required herein.

(c) Joint Use: When an offstreet loading space is used jointly by two or more uses with different requirements, or two or more uses having the same requirement, an area shall be provided equal to the total of requirements of all the uses.

5-16-3 Development of Offstreet Loading Facilities

(a) Plans: An applicant for a building permit must submit plans showing the offstreet loading required by this Ordinance, for any use or structure required to provide offstreet loading facilities. The plan shall accurately designate the required offstreet loading spaces, access thereto, dimensions and clearance.

(b) Size: Each space shall have clear horizontal dimensions of twelve (12) feet by thirty (30) feet exclusive of platforms and piers and a clear vertical dimension of fourteen (14) feet.

Section 5-17. Airport Influence Area

All land lying within the NEF 30 or higher noise contour as designated on the Official Zoning Map, City of Madison, is subject to special development regulations for the purpose of protection of the general health, safety and welfare of the public. In the case of any noise sensitive land uses within the NEF 30 or greater corridor, the

potential buyer or builder shall be advised of the special requirements for development within this area as outlined in the Madison Subdivision Regulations.

Section 5-18. Required Buffers (ord. 96-02)

The use of properly planted and maintained buffer areas may reduce and ease potential incompatibility between or among different uses of land in proximity to each other.

5-18-1 Requirements: Landscaped buffers are required wherever two different zoning districts are adjacent to one another. The width of these buffers depends on the nature of the adjacency; that is, which two_districts are adjacent to one another. The width requirements are enumerated in Section 5-18-3 below. In addition, buffers must meet the following requirements:

(a) The landscaped buffer area shall not be less than the width specified in the Sec. 5-18-3 measured at right angles to property lines and shall be established along the entire length of and contiguous to the designated property line or lines.

(b) The area shall be so designed, planted, and maintained as to be eighty (80) percent or more opaque between two (2) and six (6) feet above average ground level when viewed horizontally, unless otherwise specified in the appropriate district regulations.

(c) Types and numbers of plantings for landscaped buffers shall be submitted with application for a building permit, along with plans and statements demonstrating how the buffer will be irrigated in the future. No building permit or site plan certificate shall be issued without such data, where this Ordinance requires a landscaped buffer area or areas.

(d) Plantings shall be of a size and type which will insure the meeting of the eighty (80) percent opacity requirement within no longer than twelve (12) months of the date of first planting. Where questions may arise as to the suitability of proposed plant materials to meet this requirement, final determination of suitability shall be made by the Planning Commission. Eighty-percent opacity must be maintained year-round.

(e) Failure to maintain the landscaped buffer area as set out above shall be a violation of this Ordinance.

5-18-2 Substitution for Landscaped Buffer Area. When expressly authorized by the Planning Commission, a six (6) foot high opaque structure set in a five (5) foot wide landscaped buffer area may be substituted for the six (6) foot high, planted buffer in Subsection 5-18-1.

5-18-3 Exception to Requirement. Nothing in this ordinance shall be construed to require a landscaped buffer adjacent to a road depicted on the City's Major Road Plan. In

addition, the Planning Commission may, by majority vote, waive any buffering requirement with respect to lot lines adjacent to any public street. (ord. 98-02)

5-18-4 Landscaped buffers shall be constructed by, and located on the lot zoned for the more intensive use. The Table in Section 5-18-4 below shall be used to determine which use is more intensive, with the least intensive uses on the left side of the horizontal axis of the Table, and the most intensive uses on the right side of the horizontal axis. In the case where an existing "more intensive" use adjoins a lower intensity district, but has not provided the required_landscaped buffer, the less intensive use, when developed, may provide the buffer, at the option of the less intensive use.

5-18-5 Minimum Landscape Buffer Widths. Minimum landscape buffer Widths shall be established according to the following table. Where district regulations in Chapter 4 of this Ordinance require a different buffer width, the requirements in Chapter 4 will control. All required buffers are in addition to yard requirements:

Minimum Required Buffers

Adjoining Use

	R1,R1A, R1B,R2,R3A RC-1, RC-2	**R3**	**R4**	**B1 B2/S1**	**B2**	**B3,M1,M2**
Proposed Use						
R1,R1A R1B,R2,R3A RC-1, RC-2		**10**	**20**	**20**	**30**	**50**
R3	**10**		**10**	**20**	**30**	**40**
R4	**20**		**10**	**10**	**20**	**30**
B1 B2/S1	**20**	**20**	**10**		**20**	**30**
B2	**30**	**30**	**20**	**20**		**20**
B3,M1,M2	**50**	**40**	**30**	**30**	**20**	

5-18A Sidewalks (Ord. 97-50)

5-18A-1 Sidewalks Required

At the time of site plan approval, the Planning Commission shall require the construction of 5 ft. wide concrete sidewalks along the adjacent public City street frontage for any project subject to the provisions of Section 5-2 of the zoning ordinance, unless a sidewalk exists at the time the site plan is approved. In the event that the project fronts on two streets depicted on the adopted Future Transportation Network Map in the Comprehensive Plan, sidewalks shall be provided on both streets. In the event that the project fronts on two streets, only one of which is depicted on the adopted Future Transportation Network Plan in the Comprehensive Plan, sidewalks shall be provided on the street so depicted, and, should the Planning Commission so require, also on the other street. Sidewalks shall be installed on public right-of-way. However, the Planning Commission shall in no case require the installation of sidewalks on State-owned right-of-way or_along State Roads. When right-of-way is not available, the Planning Commission may require the installation of sidewalks in a sidewalk easement in the front yard on the site, in such location and configuration as to connect to existing or future sidewalks on adjacent parcels. However, sidewalks may not be installed in a front yard without the explicit approval of the Planning Commission.

5-18A-2 Waiver by Planning Commission

a) When the installation of sidewalks is, in the judgment of the Planning Commission, impractical, unjustifiable, or otherwise not in the public interest, the Planning Commission shall have the authority to waive this requirement.

b) Sidewalks shall not be required adjacent to parcels which are zoned M-1 or M-2. (ord. 98-74)

5-18A-3 Sidewalks in Buffer Areas

Where the Planning Commission permits sidewalks or other walkways designed for pedestrian traffic to be placed within buffer areas required by Section 5-18 or any zoning district regulations, the width of the buffer will be increased 1 ft. for every foot of width of the sidewalk.

Section 5-19. Storm Water Management, Drainage, Erosion Control

To the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing man-made drainage ways shall remain undisturbed. Lot boundaries shall be made to coincide with natural and pre-existing man-made drainage ways within subdivisions to avoid the creation of lots that can be built upon only by altering such drainage ways and topography.

5-19-1. Storm Water Management

All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments. Specific requirements area:

1. No developments may be constructed or maintained so that such development unreasonably impedes the natural flow of water from higher adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties; and

2. No development may be constructed or maintained so that surface waters from such development are unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties.

5-19-2. Drainage

A. All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface waters shall not be regarded as unduly retained if:

1. The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or storm water runoff control plan; or

2. The retention is not substantially different in location or degree than that experienced by the development site in its predevelopment stage, unless such retention presents a danger to health or safety.

B. No surface water may be channeled or directed into a sanitary sewer system.

C. Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.

D. Use of drainage swales rather than curb and gutter storm sewers in subdivisions is provided for in Subdivision Regulations of the City of Madison, Alabama. Private roads and access ways within unsubdivided developments shall utilize curb and gutter storm drains to provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner or if other sufficient reasons exist to require such construction.

E. Construction specifications for drainage swales, curbs and gutters, and storm drains shall be contained in the Subdivision Regulations.

F. The City Engineer may require the detention or retention of stormwater on-site if necessary to meet Stormwater Management level of service standards adopted by the City. However, if capacity is available in the downstream drainage channels, the City Engineer may permit the drainage of the site into the existing system. In the event the site is drained into the existing system, the City Engineer may require the upgrading of downstream drainage improvements if necessary to maintain their predevelopment level of service. Attention is called to the Stormwater Management and Drainage standards and criteria found in the Public Improvements Manual.

5-19-3. Erosion and Sedimentation Control

A. No zoning, special-use, or conditional-use permit may be issued and final approval for subdivision plats or certified plats may not be given with respect to any development that would cause land disturbing activity unless the professional engineer officially representing the developer certifies to the City that all necessary permits have been received from those agencies from which approval is required by state or federal law and that either:

1. An erosion control plan has been submitted to and approved by the City Engineer; or

2. The City Engineer has examined the preliminary plans for the development and it reasonably appears that an erosion control plan can be approved upon submission by the developer of more detailed construction or design drawings. However, in this case, construction of the development may not begin, and no building permits may be issued, until the City Engineer approves the erosion control plan.

B. For the purposes of this section, land disturbing activity means any use of the land by any person in residential, educational, institutional, commercial, or industrial
development, and highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid mineral or organic particulate matter is transported by water, ice, air, or gravity from the site of its origin.

Section 5-20. Alternative Energy Forms

The use of solar energy collectors, storage facilities, distribution components, windmills, etc., for the purpose of providing energy for heating and/or cooling, is a Permitted Use within all zoning districts whether as a part of a structure or incidental to a group of structures. When not part of a structure, they are permitted in rear yards only.

Section 5-21. Regulations Relating to Airport Obstruction and Clear Zones

The general purpose and intent of this Section is to provide regulations for limiting the height of structures for the protection of the health and welfare of the public and aircraft safety in the approach paths shown on Attachment A to the Official Zoning Map, City of Madison, Alabama.

5-21-1 Establishment of Baseline Measurement Criteria

1. Airport reference point is established and described as follows: Latititude 34 degrees - 38' -35"; Longitude 86 degrees - 40' - 20".

2. The airport elevation is hereby declared to be 628' mean sea level.

3. The elevation of runway 18R for this Ordinance is hereby declared to be 628.1' mean sea level.

4. The elevation of runway 36L for this Ordinance is hereby declared to be 616.9' mean sea level.

5. The elevation of runway 36R for this Ordinance is hereby declared to be 591.3' mean sea level.

6. The elevation of runway 18L for this Ordinance is hereby declared to be 606.4' mean sea level.

5-21-2 Establishment of Air Space Zones

1. Approach - Departure Zone: The zone is established at each end of the runway for landings and takeoffs. The approach-departure zone shall have a width of 1,000 feet at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of 16,000 feet at a distance of 50,200 feet beyond each end of the runway, it centerline being the continuation of the centerline of the runway.

2. Horizontal Zone: This zone is established as the area within a configuration which the perimeter is constructed by swinging arcs with a radius of 10,000 feet from the center of each end of the primary surface of each runway of the airport and connecting the adjacent arcs by lines tangent to those arcs.

3. Transitional Zones: These zones extend outward and upward from both sides of the primary surface to an intersection with the horizontal zone. Transitional zones adjacent to the approach-departure zones extend outward and upward from the edge of the approach-departure zones, beginning at the periphery of the horizontal zone, to a distance of 5,000 feet measured horizontally.

5-21-3 Establishment of Surfaces and Height Limitations. Except as otherwise provided in this Ordinance, no structure or tree shall be altered, allowed to grow, or maintained in any zone created by this Section to a height in excess of the height elevation hereby established for such zone.

1. Primary Surface: The Primary Surface of runway 18R/36L is 1,000 feet wide with its centerline being the runway centerline and extends 200 feet beyond each end of the runway to a length of 10,400 feet.

2. Primary Surface: The Primary Surface of runway 18L/36R is 1,000 feet wide with its centerline being the runway centerline and extends 200 feet beyond each end of the runway to a length of 8,400 feet.

3. Approach - Departure Surface Runway 18R: This surface increases one (1) foot in height for each one hundred (100) feet in horizontal distance beginning at an elevation of 628.1 feet mean sea level and a distance of 200 feet beyond the end of said runway and extending 50,000 feet beyond the end of said runway to an elevation of 1,128 feet MSL.

4. Approach - Departure Surface Runway 18L: This surface increases one (1) foot in height for each one hundred (100) feet in horizontal distance beginning at an elevation of 607.4 feet mean sea level and at a distance of 200 feet beyond the end of said runway and extending 50,200 feet beyond the end of said runway to an elevation of 1,106 feet MSL.

5. Approach - Departure Surface Runway 36R. this surface increases one (1) foot in height for each one hundred (100) feet in horizontal distance beginning at elevation of

592.3 feet mean sea level and a distance of 200 feet beyond the end of said runway and extending 50,200 feet beyond the end of said runway to an elevation of 1,090 feet MSL.

6. Approach - Departure Surface Runway 36L: This surface increases one (1) foot in height for each one hundred (100) feet in horizontal distance beginning at an elevation of 6l6.9 feet mean sea level and a distance of 200 feet beyond the end of said runway and extending 50,200 feet beyond the end of said runway to an elevation of 1,114 feet MSL.

7. Transitional Surface: This surface increases one (1) foot in height for each seven (7) feet in horizontal distance extending outward and upward from the primary surface until intersection with the horizontal surface. Transitional surfaces for the approach-departure zone extend from the edges of the approach-departure increasing only one (1) foot in height for each seven (7) feet in horizontal distance, extending to a distance of 5,000 feet measured horizontally from the edge of the approach surfaces.

8. Horizontal Surface: This is a horizontal plane 150 feet above the established airport elevation and is bounded by the perimeter of the horizontal zone. The maximum elevation of structures or trees located thereunder shall be 778 feet mean sea level.

9. Conical Surface: This surface extends upward and outward from the periphery of the horizontal surface, increasing one (1) foot in height for every twenty (20) feet in horizontal distance for 4,000 feet in distance measured horizontally, commencing at 778 feet mean sea level and the perimeter being 978 feet mean sea level.

5-21-4 Use Restrictions. Notwithstanding any other provisions of this Ordinance, no use may be made of land within any airport hazard zone in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for fliers to distinguish between airport lights and others, result in glare in the eyes of fliers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, taking-off, or maneuvering of aircraft. Nothing in this Ordinance shall be construed as prohibiting the growth of any tree to a height of fifty (50) feet or the construction of any structure to a height of thirty-five (35) feet above the surface of the land.

5-21-5 Hazard Marking and Lighting. The owner of any structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Manager or Federal Aviation Administration to indicate to the operators of aircraft in the vicinity of the Airport, the presence of such airport hazards.

5-21-6 Non-Conforming Uses. The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the structure, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance and is diligently executed.

Section 5-22 OUTDOOR LIGHTING CONTROL (99-108, 8-23-99) (Ord. 2001-20)

See. 5-22-1. Findings.

The purpose of this article is to create standards for outdoor lighting to increase compatibility of different land uses by minimizing light pollution, glare, and light trespass caused by inappropriate or misaligned light fixtures, while improving nighttime public safety, utility, and security, and preserving the rural, environmental, and scenic qualities of the City of Madison.

Sec. 5-22-2. Definitions.
Unless the context specifically indicates otherwise, the following terms and phrases, as used in this article, shall have the meanings designated in this section:

(a) "Zoning Administrator" shall mean the Zoning Administrator of the City of Madison or his/her representative.

(b) "Fully Shielded" shall mean a technique or method of construction and/or manufacture which does not allow any light dispersion to shine above the horizontal plane from the lowest light emitting point of the light fixture. In addition, the light emitting, distributing, reflecting and refracting components of the light fixture, i.e. lamp, lens, reflective surface, etc., shall not extend beyond the shielding of the fixture. Any structural part of the light fixture providing this shielding shall be permanently affixed to the light fixture.

(c) "Glare" shall mean artificial light that causes annoyance, discomfort, or loss of visual performance and visibility.

(d) "Installed" shall mean the initial installation of outdoor light fixtures defined herein, following the effective date of this article. A project with an approved building permit prior to the effective date of this ordinance is excluded from compliance with the article for the initial installation only.

(e) "Light pollution" shall mean any artificial light that causes a detrimental effect on the environment, and/or enjoyment of the night sky or causes undesirable glare or light trespass.

(f) "Light trespass" shall mean artificial light that produces an unnecessary and unwanted illumination of an adjacent property.

(g) "Luminous tube lighting" shall mean gas-filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g. neon, argon, etc.

(h) "Outdoor light fixtures" shall mean outdoor electrically powered illuminating devices, outdoor light or reflective or refractive surfaces, lamps and similar devices including all parts used to distribute the light and/or protect the lamp,

permanently installed or portable, used for flood lighting, general illumination or advertisement. Such devices shall include, but are not limited to, search, spot, and flood lights for:

1. buildings and structures, including canopies and overhangs;
2. recreation facilities;
3. bike paths, greenbelts and parks;
4. parking lot lighting;
5. landscape lighting;
6. billboards and other signs (advertising and other);
7. street lighting,
8. display and service areas; and
9. walkway lighting

(i) "Outdoor recreation facility" shall mean an area designed for active recreation, whether publicly or privately owned, including, but not limited to, baseball and softball diamonds, soccer and football fields, golf courses, tennis courts and swimming pools.

(j) "Uplighting" shall mean any artificial light source that distributes light above an imaginary horizontal plane passing through the lowest light emitting point of the light fixture.

Sec. 5-22-3. General Requirements

(a) All outdoor light fixtures installed after the effective date of this article and thereafter maintained upon property used for commercial, industrial, multi-family purposes or governmental purposes (excluding rights-of-way), as defined in the Zoning Code of the City of Madison, shall be fully shielded. In addition, light trespass and glare on, from, or onto any property shall be limited to a reasonable level through the use of shielding, and directional lighting methods, including, but not limited to, fixture location and height.

(b) Externally illuminated signs, advertising displays, billboards, and building identification shall use top mounted light fixtures which shine light downward and which are fully shielded.

(c) The use of mercury vapor fixtures or lamps for outdoor lighting is prohibited.

(d) Outdoor light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform shall use a very narrow cone of light for the purpose of confining the light to the object of interest and minimize spill-light and glare.

(e) Outdoor light fixtures used for outdoor recreational facilities shall be fully shielded except when such shielding would cause an impairment to the visibility required

in the intended recreational activity. In such cases, partially shielded fixtures and directional lighting methods shall be utilized to limit light pollution, glare and light trespass to a reasonable level, as determined by the Zoning Administrator, without diminishing the performance standards of the intended recreational activity. Illumination from recreational facility light fixtures shall be shielded to minimize glare extending toward roadways where impairment of motorist vision might cause a hazard.

(f) In addition to the provisions in this article, all outdoor light fixtures shall be installed in conformity with all other applicable provisions of this municipal code.

Sec. 5-22-4. Exemptions.

(a) All outdoor light fixtures existing and legally installed prior to the effective date of this article are exempt from the provisions of this article, provided, however, that no replacement, structural alteration, or restoration of outdoor light fixtures shall be made unless it thereafter conforms to the provisions of this article. However, exemptions may be granted to this conformance standard if:

1. utilization of conforming outdoor light fixtures would have the effect of decreasing the lighting levels to below the minimum illumination levels required by the city, and the additional cost necessary to meet the minimum illumination levels would exceed 50% of the original installed cost of the light fixture; and/or

2. utilization of conforming outdoor light fixtures would negatively impact the aesthetic quality/architectural design of the property or immediate area by mixing substantially different styles and types of fixtures/poles.

(b) All outdoor light fixtures producing light directly by the combustion of fossil fuels, such as, kerosene lanterns or gas lamps, are exempt from the requirements of this article.

(c) Temporary lights used for holiday decorations are exempt from the requirements of this article.

(d) Construction or emergency lighting is exempt, provided such lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting.

(e) Signs of the type constructed of translucent materials and wholly illuminated from within are exempt from the shielding requirement.,

See. 5-22-5. Approved materials and methods of installation..

(a) The provisions of this article are not intended to prevent the use of any design, material or method of installation not specifically proscribed by this article

provided any such alternate has been approved by the city. The Zoning Administrator may approve any such alternate provided that the proposed design, material or method:

(1) provides approximate equivalence to the specific requirements of this article; or

(2) is otherwise satisfactory and complies with the intent of this article.

Sec. 5-22-6. Administrative procedures for exemption

(a) Exemptions based on the provisions of Sec. 5-22-4 (a) of this ordinance must be granted by the Zoning Administrator to be effective. Exemptions based on Secs. 5-22-4 (b – f) are "automatic," and no formal exemption need be sought. Any decision of the Zoning Administrator with respect to exemptions may be made to the Director of Community Development, who shall concur with, reverse, or modify the decision of the Zoning Administrator. No exemption may be granted that is not based on factors enumerated in Sections 5-22-4 or 5-22-5 of this ordinance, or that is not supported by facts required to be demonstrated.

(b) Appeals from this Ordinance shall be made to the Zoning Board of Adjustments and Appeals in accordance with Chapter 10 of the zoning ordinance and the rules of the Board.

Sec. 5-22-7 Temporary Light Installations

The provisions of this ordinance shall not apply to temporary light installations at street fairs, school events, and similar events, providing that such event does not last longer than seven consecutive days, nor longer than ten days in any 30-day period. However, any permanent lighting fixtures used at the special event must comply with all provisions of this ordinance. Any temporary lighting installations that remain in place beyond seven consecutive days or ten days in any 30-day period shall be deemed permanent, and shall be subject to the provisions of this ordinance.

ARTICLE VI

REGULATIONS FOR MOBILE HOME PARKS

Section 6-1. Purpose

The purpose of this Article is to provide requirements for the development of mobile home parks while deriving for the City the advantage of improved appearance, compatibility of uses, optimum service by community facilities and adequate vehicular access and circulation.

Section 6-2. Procedure

No mobile home park shall hereafter be developed, redeveloped, altered, or expanded without a Special Exception Permit in accordance with the procedures provided in Section 10-8 and Section 5-2 of this Ordinance. In addition, a site plan approved by the Planning Commission containing the following information shall be required.

(a) Location of mobile homes on stands and dimensions of each stand. Location and number of sanitary conveniences including toilets, washrooms, laundries, and utility rooms to be used by the occupants of units.

(b) A typical stand detail showing the patio, if any, and mobile home with the location of utility connections including gas, water and sewer, and electrical.

(c) An area within or adjacent to the proposed mobile home park subject to periodic inundation by storm drainage, overflow, or ponding, shall be clearly shown and identified on the plan.

(d) Any and all other physical improvements as specified in Section 6-4.

Section 6-3. License Required

It shall be unlawful for any person to establish, operate or maintain, or permit to be established, operated or maintained upon any property owned, leased or controlled by him, a mobile home park without having first secured a license for each such park from the Board of Commissioners pursuant to this Article. The license shall expire on December 31 of each year, but may be renewed under the provisions of the Section for additional periods of one year.

The application for a license or a renewal thereof shall be made on forms furnished by the City Clerk and shall include the name and address of the owner in fee of the tract (if the fee is vested in some person other than the applicant, a duly verified statement by that person, that the applicant is authorized by him to construct or maintain the park and make the application), and such a legal description of the premises, upon which the park is or will be located as will readily identify and definitely locate the premises. The application shall be accompanied by one (1) copy of the park plan and one (1) copy of the Special Exception Permit.

Section 6-4. Requirements

Any development, redevelopment, alteration, or expansion of a mobile home park within the City of Madison shall be done in compliance with these requirements:

6-4-1 Location. A mobile home park shall be located only in designated zoning districts and with a Special Exception Permit for that purpose as provided in this Ordinance.

6-4-2 Basic Minimum Requirements

(a) Area Requirements: the minimum size of mobile home park shall be two (2) acres.

(b) Stand Requirements: Each stand shall provide a minimum area of 6,000 square feet.

(c) Open Space Requirements: The minimum front yard setback shall be twenty (20) feet from the nearest corner of the mobile home to the front line of the stand. The minimum distance between mobile homes shall be twenty-five (25) feet on the sides and twenty (20) feet on the rear.

(d) Height Regulations: The height limit for any mobile home in the park shall be eighteen (18) feet. The height of the mobile home frame above the ground elevation, measured at 90 degrees to the frame, shall not be greater than three (3) feet.

(e) Soil and Ground Cover: Exposed ground surfaces in all parts of every park shall be paved, covered with stone screenings or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and eliminating dust.

(f) Drainage: The ground surface in all parts of a park shall be graded and equipped to drain all surface water in a safe, efficient manner. The adequacy of drainage facilities shall be verified by a licensed professional engineer.

(g) Design and Location of Storage Facilities: Storage facilities with a minimum capacity of 200 cubic feet per stand may be provided on the stand, or in compounds located within two hundred (200) feet of each stand. Storage facilities shall be designed in a manner that will enhance the appearance of the park and shall be faced with masonry, porcelained steel, baked enameled steel or other material equal in fire resistance, durability and appearance, or of an equal material approved by the Administrative Officer.

(h) Mobile Home Stands: The area of the mobile home stand shall be improved to provide adequate support for the placement of the mobile home.

(i) Parking: Every mobile home stand shall have two (2) offstreet parking spaces.

6-4-3 Access and Traffic Circulation. Internal streets shall be privately owned, built, and maintained, and shall be designed for safe and convenient access to all stands and parking spaces and to common use of park facilities.

(a) An internal street or common access route shall be provided to each stand. The street shall be a minimum of thirty (30) feet in width. The internal street shall be

continuous or shall be provided with a cul-de-sac having a minimum radius of sixty (60) feet. No internal street ending in a cul-de-sac shall exceed four hundred (400) feet in length.

(b) All streets shall be constructed to meet the minimum specifications for streets within the City of Madison except the curbing. A concrete lay-down cur or acceptable substitute shall be used as approved by the Administrative Officer.

(c) Every mobile home stand shall have two (2) offstreet parking spaces. Offstreet parking shall be hard surfaced with all weather materials.

(d) Internal streets shall be maintained free of cracks, holes, and other hazards at the expense of the licensee.

(e) All streets within each park shall be numbered or named in an approved manner.

(f) Interior streets shall intersect adjoining public streets at ninety degrees and at locations which will eliminate or minimize interference with the traffic on those public streets.

(g) At each entrance to the park, an 18" by 24" sign shall be posted stating "Private Drive, No Thru Traffic". The licensee may also post a speed limit sign on this same post.

6-4-4 Park Lighting. Adequate lighting shall be provided in a manner approved by the Huntsville Utilities, City of Huntsville. All electric and telephone lines should be placed underground when possible.

6-4-5 Recreation Area. All mobile home parks shall have at least one (1) recreation area located to be free of traffic hazards, easily accessible to all park residents, centrally located where topography permits, and usable for recreation purposes. Not less than ten (10) percent of the gross park area shall be devoted to recreational facilities. Such space shall be maintained in a usable and sanitary condition by the park owner.

6-4-6 Utility Requirements. Each mobile home shall be connected to the municipal water system and to the municipal sewage disposal system, if available. The design and specifications of the utility systems shall meet City specifications and shall be approved by the City Water and Sewer Board. If the municipal utility system is not available, then a private central system shall be required until such time as the municipal systems become available. The design and specifications of such systems shall meet Health Department specifications and shall be installed under inspection of the appropriate City Department.

6-4-7 Mobile Home Standards. To protect the health and safety of the public and assure quality construction, all mobile home units shall conform to standards approved

by the American National Standards Institute (ANSI) in its Standards for Mobile Homes, A 119.1 - l969 as amended.

ARTICLE VII

SIGN CONTROL REGULATIONS

Section 7-1. No sign shall hereafter be constructed, erected or maintained within the corporate limits of the City of Madison, contrary to the requirements hereinafter set out, and it shall be unlawful for any person to construct, erect, re-erect, or maintain any sign within the city limits of the City of Madison except in conformity herewith.

Section 7-2. Definitions

For the purpose of this article the following definitions, terms, and their application shall be used and applied.

(a) Accessory Sign - A sign related to a business or profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located, provided that an accessory sign is not regulated as to content by this Ordinance.

(b) Alteration - Any change in a structure or sign that does not increase its exterior dimensions or change its shape, size, or illumination.

(c) Attached Sign - A sign attached to a building.

(d) Banner - A sign produced on cloth, paper or fabric of any kind, either with or without frame, and with lettering and/or symbols. A banner is a type of temporary sign and is subject to regulation thereof.

(e) Building Official, or Building Inspector - The chief enforcement officer of the Zoning Ordinance, or any of his authorized assistants or inspectors.

(f) Business Center Sign - A sign that identifies a complex of two or more occupants or tenants on the same property.

(g) Electric Sign - A sign with electric wiring and lighting therein or thereon or used in conjunction with the sign, including use of neon tubing.

(h) Establishment - A structure or portion thereof occupied and utilized and operated as a single residence, business, or commercial enterprise.

(i) Flag - A sign produced of cloth, paper, or any type of fabric and not containing any lettering, except that political flags may contain lettering while still being classified as flags (as opposed to banners, which normally do contain lettering).

(j) "Future Home" Sign - A sign marking the location of a future development, such as a church, apartment complex, or subdivision. Such signs shall be restricted to 32 square feet, and there shall be no more than one such sign for every 250 feet of street frontage. Land on which such signs are placed must be in the ownership of the prospective developer; and all such signs must be on-site.

(k) Garage Sale or Yard Sale Sign - A temporary sign used to advertise a garage or yard sale held at a residence. Such signs must not be placed in any street right-of-way or attached to any utility poles, must be located on private property with the consent of the property owners, and must comply with all other regulations of this ordinance, except that no application or fee is required for this type of sign.

(l) Ground Sign - Any sign permanently affixed to the ground and supported by a foundation or by one or more columns, poles, uprights, or braces permanently imbedded in the ground which is not a direct part of a building, whether illuminated or not.

(m) Highway Attractor Sign - A business accessory ground sign whose primary purpose is to attract business from vehicles passing on I-565.

(n) Illuminated Sign - A sign which is produced and displayed by means of artificial projected lights.

(o) Ingress and Egress Signs - Signs that provide information necessary to safely identify vehicular entrances and exits of businesses. Such signs may display a business name or logo and directional information or symbols. Such signs may not exceed three (3) square feet in size and thirty (30) inches in height and must be located out of the street right-of-way and on the premises of the business. Only one ingress and one egress sign may be installed per driveway.

(p) Lead-In signs (Temporary): Offsite signs directing traffic to a particular subdivision, home, event, or attraction. Such signs may be erected after noon on Friday, and must be removed by sunset on the day prior to the following regular business day, except that churches and civic organizations placing such signs may erect them up to 24 hours before the event advertised, and must take them down no later than 24 hours after the event ends. Ten such signs are permitted for each subdivision, event, or location advertised. In the event a subdivision has placed any lead-in signs pursuant to this section, no lead-in signs may be placed by or for any individual homes in the subdivision, except for homes offered for resale by their current owner, and only when that current owner is other than the developer of the subdivision or a general contractor. The Inspection Division shall remove all signs not taken down in a timely manner in accordance with regulations herein. Lead-In signs are permitted in all zoning districts. The maximum size of a lead-in sign (temporary) is six square ft.

(q) Marquee - A permanent roofed structure attached to and supported by a building and projected over public property.

(r) Marquee Sign - A sign attached to or painted on or inscribed on and partly or fully supported by or made an integral part of a marquee.

(s) Mechanics' or Artisans' Sign - A temporary sign of a mechanic or artisan maintained only while work is being performed on the premises. Only one sign board shall be erected per construction site per street frontage and each mechanic or artisan must mount his individual sign on that board. The size of the sign board shall not exceed sixty-four (64) square feet. However, in any residence district, the maximum size of the sign board shall be eighteen (18) square feet, or each mechanic or artisan may erect one individual sign not to exceed six (6) square feet in size.

(t) Non-Accessory Sign - A sign unrelated to a business or profession conducted, or to a commodity or service sold or offered, upon the premises where such a sign is located.

(u) Offsite Permanent Lead-In Signs - Offsite permanent signs erected by a school or church (or other place of worship) for the purpose of guiding the public to the location appearing on the sign. One such sign may be erected by any school or church that does not front on a street depicted on the Adopted Future Transportation Network Map in the 1995 Comprehensive Plan. Such sign must be erected on a street depicted on the Adopted Future Transportation Network Map at a point near the school or church erecting the sign. Offsite Permanent Lead-In Signs shall not exceed 16 sq. ft. when located in a B-2, B-3, M-1, or M-2 District, and shall not exceed 6 sq. ft. when located in any other zoning district.

(v) Person - Shall include corporations, partnerships, associations or individuals.

(w) Portable Sign, Mobile Sign, or Trailer-Mounted Sign - Signs designed to be portable, whether or not they are permanently affixed to the ground, a building, or other permanent fixture, and having either internal or external lighting. For the purpose of this ordinance such signs shall be considered as accessory ground signs and as such must meet all the requirements specified for accessory ground signs. Such signs also shall be required to meet the wind load standards of the Standard Building Code.

(x) Projecting Sign - A sign erected on the face or outside wall of any building or structure, column or post and projecting out at an angle therefrom.

(y) Real Estate Sign - A temporary sign advertising the sale or rental of a property in a single or separate ownership or operated as a separate business or establishment.

(z) Repair - The replacement of any part of a sign with equivalent material for the purpose of maintenance that does not affect its design, size, structural framework, exterior dimensions, or its structural members and uprights.

(aa) Roof Sign - A sign which is affixed to the roof of any building.

(ab) Sign - A display board or screen of any size and made of any material on which are characters, letters or illustrations applied thereto in any manner, except a manufacturer's product identifying label or tag on merchandise held for sale is not a sign. Vehicles containing displays meeting this definition and customarily parked in view from a public street shall also be deemed to be signs. Ribbons, banners, flags, streamers and similar devices are also considered to be signs, whether or not they contain writing.

(ac) Sign Size - The extreme physical dimensions of a sign, excluding lattice work or fencing, incidental to its decoration. Where individual characters are used, whether individually mounted or fastened or jointly mounted or fastened to convey a message, the total dimensions from the beginning of the first character to the end of the last character in the longest line and the top of the uppermost character and the bottom of the lowermost character shall be considered in the calculation of the overall sign size.

(ad) Special Event Sign - Signs advertising or directing traffic and/or pedestrians to a special, time-limited event.

(ae) Standard Building Code - The Standard Building Code as published by the Southern Building Code Congress International, Inc., and adopted by the City of Madison.

(af) Subdivision or Apartment Identification Sign - A sign that identifies the name of a residential subdivision or apartment complex. Two such signs may be located at the main entrances to a subdivision or complex, provided that the characters and graphics do not exceed forty (40) square feet per sign. At the discretion of the sign owner, subdivision identification signs associated with subdivisions whose improvements have been dedicated to the public, may be dedicated as well, subject to acceptance requirements found in the City's Subdivision Regulations.

(ag) Subdivision Advertising Sign - A sign, placed within the lands shown on the preliminary and/or final plat of the subdivision, advertising lots for sale within the subdivision and/or other information relative to the subdivision. A Subdivision Advertising Sign is not a Real Estate Sign.

(ah) Temporary Political Sign - Any attached or ground sign advertising a political party, issue or candidate when the same is related to or concerning a pending election to be held within the city or county.

(ai) Temporary Sign - Any display, informational sign, or other advertising device that is of a non-permanent nature and is intended to convey information about a specific, timed event rather than an ongoing occurrence. A temporary sign shall not be displayed for more than two months during any six-month period, shall not exceed thirty-two (32) square feet in size, and shall be located on premises. (Exception: The aggregated size of all banners on a lot may be equal in square footage to 1/2 the linear front feet of the lot, except in the B-2, B-3, M-1, and M-2 districts, where banners may be equal in square feet to twice the linear frontage of the lot.) In no event shall any temporary sign be permitted in violation of any provisions of the Zoning Ordinance.

(aj) V-Sign - A sign with two attached sides in which the faces of said sign are not parallel and the smallest angle of said sign is not greater than thirty (30) degrees.

Section 7-3. License Required

No person or persons shall construct, erect or re-erect any sign within the corporate limits of the City of Madison, Alabama, without first having obtained a license as required by the License Code of the City of Madison. This provision shall not apply to persons employed by licensed firms, or to the owner or employees of the owner doing the entire work of construction or erection.

Section 7-4. Permits Required (Ord. 99-134,10/25/99)

7-4-1 It shall be unlawful for any person, either directly, indirectly, or by agent, to erect or re-erect any sign or to alter or repair in the City of Madison any sign exceeding fifty percent (50%) of value unless application for a permit shall have been made to the Inspection Division and a permit shall have been issued therefore. Every permit shall be considered canceled if active work is not commenced within a period of ninety (90) days from the date of its issue. Each applicant is allowed one 90-day extension for each sign permit, provided the extension is applied for prior to the expiration date of the original permit, but not before 15 days prior to said expiration, and provided that the original permit was issued properly and applicant is entitled to said permit. No charge is imposed for the extension of a sign permit.

7-4-2 An application for a permit shall be submitted to the Inspection Division on the form supplied by it and shall be accompanied by the written consent of the property owner or lessee desiring any sign to be erected, by plans and specifications setting forth the character of the sign in all its structural parts, as well as an accurate engineering survey of the parcel indicating the location of the proposed sign, all existing signs, and all lot dimensions.

7-4-3 Fees. The Building Inspector shall collect a minimum of $25.00 for each permit issued at the time initial application is made, to include signs having an estimated total installed cost of $1,000.00, plus 1/2 percent of all over $ 1,000.00 in estimated total installed cost. A permit fee of $25.00 shall be collected for each pair of ingress and egress signs. No fees or permits shall be required for 'yard sale' signs, or for address signs required by the City's Building Ordinance. No permit fees shall be required for banners, flags, streamers, or spinners. Permits for advertising flags, banners, streamers and spinners shall be required in residential districts, but no fee shall be collected. Permits for flags, streamers and spinners are not required in nonresidential districts, but banners are required to be permitted all zoning districts.

7-4-4 Every firm using temporary real estate, special event signs, or mechanics' or artisans' signs and any candidate or political organization erecting temporary political signs shall pay an annual permit fee of $25.00 to the Inspection Division. Other businesses, organizations, and individuals using temporary signs of whatever type shall pay a permit fee of $25.00 to the Inspection Division for each such temporary sign at a specified location.

7-4-5 Exceptions - No permit shall be required for signs erected and maintained pursuant to and in discharge of any governmental function, or required by law, ordinance, or governmental regulation, nor shall any permit be required for address signs, garage or yard sale signs in any zoning district, or for streamers or flags placed on-site in any nonresidential district.Provided, however, that banners, streamers and flags are permitted only in such locations as specified in this ordinance.

7-4-6 When the installed sign has received final inspection approval, a certification seal provided by the Building Inspector must be attached to the sign in a clearly visible place.

Section 7-5. Permitted Signs by Districts (Ord 98-173, 9-15-98) (Ord 99-134, 10-25-99)

The following signs, as regulated and defined by this ordinance, and no other, shall be permitted in the districts hereinafter set forth:

7-5-1 Residential: R-1, R-1A, R-1B, R-2, and R-3 Districts, and Agricultural (AG) District

(1) Temporary real estate signs, providing that the area on one side of the sign does not exceed eight (8) square feet; and no more than one sign shall be erected for each lot of record

(2) Ground signs upon premises occupied by schools, service clubs, churches, hospitals and permitted nonresidential buildings, provided that the area on one side of any sign shall not exceed forty (40) square feet, plus 10 square feet per 100 linear feet of frontage in excess of 200 feet; and not more than one such sign shall be placed on any premises, unless such premises front on more than one street in which case one such sign may be erected along each frontage.

(3) Real Estate Signs for unimproved acreage, providing the area on one side of such signs shall not exceed twenty (20) square feet; and not more than one such sign shall be erected for each 250 feet of frontage or fraction thereof.

(4) Mechanics' or artisans' signs.

(5) Two Subdivision or apartment identification sign per entrance from a public street.

(6) Ingress and egress signs on premises occupied by schools, service clubs, churches, hospitals and permitted nonresidential buildings.

(7) Two subdivision advertising signs, per access to any public street that exists prior to preliminary plat approval, not to exceed thirty-two (32) square feet for each sign.

(8) "Future Home" signs for uses permitted in the district in which the sign is placed.

(9) Special Event Signs, provided that they are erected no sooner than ten days prior to the commencement of the event, and are removed no later than seven days after the last day on which the event is held. Such signs may not exceed six (6) square feet in area.

(10) Lead-In signs (temporary)

(11) Advertising flags and banners provided they are temporary in nature, kept in good repair, and do not exceed 10 sq. ft. each in size, nor two in number (total), per lot. Flags and banners shall be set back at least 15 ft. from the property line, and shall advertise goods and/or services available on the premises.

(12) Corporate flags no larger than 10 sq. ft.

(13) Political Flags

(14) Offsite Permanent Lead-In Signs

7-5-2. High Density Residential, Neighborhood Commercial, Planned Commercial Subdivision (R-4, B-1, and B-2/S-1)

(1) Temporary real estate signs, providing the area on one side of any such sign shall not exceed twenty (20) square feet; on unimproved property the area on one side of such sign shall not exceed thirty-two (32) square feet; and not more than one such sign shall be erected for each 250 feet of frontage or fraction thereof.

(2) Mechanics' or artisans' signs.

(3) For single tenant commercial buildings in the B-1 or B-2/S-1 Zone: Attached accessory signs, provided the total area of such signs for each establishment shall not exceed one hundred (100) square feet per street frontage, all such signs shall be attached to the building, and no one sign shall exceed one hundred (100) square ft. per side.

(4) For Single Tenant commercial Buildings in the B-1 or B-2/S-1 Zone: one accessory ground sign having a maximum of thirty-five (35) square feet to the side.

(5) For multiple tenant commercial buildings in the B-1 or B-2/S-1 zone: one business center ground sign is permitted, provided that the area on one side of said sign does not exceed one hundred fifty square feet, plus 16 square ft. per tenant in excess of six tenants.

(6) For multiple tenant commercial buildings in the B-1 or B-2/S-1 Zone: one attached accessory sign per tenant, to be located near the tenant's public entrance, and not exceeding the smaller of one square ft. per 10 sq. ft. of occupied space, or 100 sq. ft.

(7) Two subdivision or apartment identification signs per entrance from a public street.

(8) Ingress and egress signs.

(9) "Future Home" signs for uses permitted in the district in which the sign is placed

(10) Special Event Signs, subject to the same restrictions found in the sign regulations for the RI-A district for this class of sign

(11) Lead-In signs (Temporary)

(12) Flags and banners, subject to the same regulations as found in the R-1A district for this class of sign, except that one flag or banner is permitted for each 25 ft. of street frontage.

(13) Offsite Permanent Lead-In Signs

7-5-3. Community Business B-2 District

(1) Multiple tenant building: Attached accessory signs, not exceeding 1 square ft. per 10 sq. ft. of space occupied, but in no case to exceed 100 sq. ft. per tenant. Said attached signs are to be located close to the public entrance of each tenant. No V-signs shall project more than twenty-four (24) inches from a basic line measured perpendicular to the face of the building. No flush mounted sign shall project from the face of the building, and no vertically lettered, double-faced sign shall project from the face of the building as aforesaid. However, in multiple tenant buildings with a covered walkway fronting the shops, each tenant may, in addition to other signs permitted herein, hang a sign of no more than 5 sq. ft. from the ceiling of the walkway perpendicular to the storefront, providing at least 10' of head clearance is maintained.

(2) Single tenant buildings: Up to five (5) attached accessory signs, with area not exceeding 1.5 times the width of the front of the building shall be allowed per street frontage (e.g., if building width is 200 ft., max. allowable sign area would be 300 sq. ft.). Said sign shall be attached to the face of the building as defined in Section 7-2 and shall face the street. Additionally, an accessory ground sign shall be permitted if said ground sign shall be a minimum of ten feet from street right-of-way and the building is at least eighty feet from any street right-of-way, and the area of said sign does not exceed one hundred square feet per side and the sign does not exceed fifteen feet in height as measured from the ground level.

(3) Marquee signs on theaters not exceeding three hundred (300) square feet, which may be in addition to all other signs authorized by this section.

(4) Temporary real estate signs, provided the area on one side of any such sign shall not exceed twenty (20) square feet; on unimproved property the area on one side of such sign shall not exceed forty (40) square feet; and not more than one such sign shall be erected for each 250 feet of frontage or fraction thereof.

(5) Mechanics' or artisans' signs.

(6) Flags and banners, including streamers, spinners, pennants, etc., as regulated in sections 7-2 and 7-4 of this ordinance.

(7) Ingress and egress signs.

(8) "Future Home" signs for uses permitted in the district in which the sign is placed

(9) Special Event signs, subject to the same restrictions found in the sign regulations for the RI-A district for this class of signs.

(10) Lead-In signs (temporary)

(11) Highway Attractor Signs

(12) On lots or tracts of land having two or more occupants, tenants, commercial or business enterprises, one business center sign is permitted, provided that the area on one side of said sign does not exceed one hundred fifty (150) square ft. plus 16 sq. ft. per tenant in excess of six tenants, but in no case more than 250 sq. ft. In the event that a single-lot, multiple occupant building has at least 400 ft. of continuous street frontage, a second business center sign may be allowed, provided that the

second sign is no larger nor taller than the first, and both business center ground signs are separated by at least 300 front ft.

(13) Offsite Permanent Lead-In Signs

7-5-4. Industrial Districts; General Commercial (M-l, M-2 and B-3) (ord. 98-72)

(1) Multiple tenant building: Attached accessory signs, not exceeding 1 square ft. per 10 sq. ft. of space occupied, but in no case to exceed 2000 sq. ft. per tenant or 500 sq. ft. per sign. Said attached signs are to be located close to the public entrance of each tenant. No V-signs shall project more than twenty-four (24) inches from a basic line measured perpendicular to the face of the building. No flush mounted sign shall project more than 6 inches from the face of the building, and no vertically lettered, double-faced sign shall project from the face of the building. However, in multiple tenant buildings with a covered walkway fronting the shops, each tenant may, in addition to other signs permitted herein, hang a sign of no more than 5 sq. ft. from the ceiling of the walkway perpendicular to the storefront, providing at least 10' of head clearance is maintained.

Additionally, one accessory ground sign per 400 ft. of street frontage (or fraction thereof) shall be permitted. The aggregated area of all the faces of all such signs shall not exceed 800 sq. ft., and no individual sign face shall exceed 250 sq. ft. Such ground signs shall be a minimum of ten feet from street right-of-way.

(2) Single tenant buildings with building width less than 200 ft.: No more than one attached accessory sign, with area not exceeding 2.5 times the width of the front of the building shall be allowed per street frontage (e.g., if building width is 100 ft., max. allowable sign area would be 250 sq. ft.).

Additionally, one accessory ground sign per 400 ft. of street frontage (or fraction thereof) shall be permitted. The aggregated area of all the faces of all such signs shall not exceed 800 sq. ft., and no individual sign face shall exceed 250 sq. ft. Such ground signs shall be a minimum of ten feet from street right-of-way.

(2A) Single Tenant Buildings with building width exceeding 200 ft; One attached accessory sign for the first 200 ft. of building width, plus one additional sign per 100 ft. (or fraction thereof) of additional width. Aggregate size of all such signs shall not exceed 2.5 times the width of the front of the building (e.g., if building width is 510 ft., five signs would be permitted, but their aggregate size could not exceed 1,275 sq. ft.). Additionally, no single sign shall exceed 400 sq. ft.

Additionally, one accessory ground sign per 400 ft. of street frontage (or fraction thereof) shall be permitted. The aggregated area of the faces of all such signs shall not exceed 800 sq. ft. and no individual sign face shall exceed 250 sq. ft. Such ground signs shall be a minimum of ten feet from street right-of-way.

(3) Reserved

(4) Real estate signs, provided the area on one side of any such sign shall not exceed forty (40) square feet; on unimproved property the area on one side of such sign shall not exceed sixty (60) square feet; and not more than one such sign shall be erected for each 250 feet of frontage or fraction thereof.

(5) Nonaccessory ground signs shall not be permitted in this district or any other zoning district

(6) Mechanics' or artisans' signs.

(7) Subdivision and apartment identification signs.

(8) Ingress and egress signs.

(9) Flags and Banners, including Pennants, ribbons, streamers, etc., as regulated in Sections 7-2 and 7-4 of this ordinance

(10) "Future Home" signs for uses permitted in the district in which the sign is placed.

(11) Special Event Signs, subject to the same restrictions as found in the RI-A district sign regulations for this class of sign.

(12) Lead-In signs (temporary)

(13) Highway Attractor Signs

(14) Offsite Permanent Lead-In Signs

7-6. General Sign Regulations (Ord 99-134, 10-25-99)

All signs maintained or hereafter erected in the City of Madison shall comply with the standards set forth in this section.

7-6-1. One sign denoting the name and address of the occupants of the premises is permitted in any zone, in addition to those allowed by this article, but said signs shall not exceed two (2) square feet in area.

7-6-2. Except as herein otherwise provided, attached flush mounted signs shall not extend beyond the ends of the wall surface on which they are placed or above the top of such wall.

7-6-3. Nonaccessory ground signs, except for temporary and permanent lead-in signs as defined in Sec. 7-2 (p) and 7-2 (u) of this ordinance, shall not be permitted within the City limits. Provided, however, that nonaccessory ground signs in existence on October 25, 1999, which are subsequently destroyed or removed, may be replaced at the same location as the sign which was destroyed or removed, with the following conditions:

1) if, on the date of removal or destruction, the sign was located in a zoning district that permitted nonaccessory ground signs on October 25, 1999, and the sign would have been permitted by the zoning ordinance in effect on October 25, 1999, then it may be replaced, provided

    a) the replacement is made within six months after the removal or destruction of the old sign, and
    b) the replacement sign is no larger or taller than the sign it replaces
    c) the replacement sign is located at the same location as the sign it replaces
    d) the replacement sign meets all setback requirements in effect on the date the old sign is removed or destroyed

2) if, on the date of removal or destruction, the sign was located in a zoning district that did not permit nonaccessory ground signs on October 25, 1999, and/or the sign would not have been permitted by the zoning ordinance in effect on October 25, 1999, then it may be replaced, provided

    a) the replacement is made within sixty days after the removal or destruction of the old sign, and
    b) the replacement sign is no larger or taller than the sign it replaces
    c) the replacement sign is located at the same location as the sign it replaces

3) if a sign which was removed or destroyed is not actually replaced within the time limits enumerated in subsections (1)(a) and (2)(a) of this section, then the sign which was removed or destroyed may not be replaced, and the location from which the sign was removed or destroyed shall no longer be considered available for the erection of a nonaccessory ground sign.

7-6-4. Signs incorporating any mechanical device are expressly prohibited; signs that emit odors or fumes are likewise prohibited.

7-6-5. Illuminated signs and outside lighting devices including beacons and spotlights shall emit only light of constant intensity, and no sign shall be illuminated by or contain flashing, blinking, intermittent, rotating or moving light or lights, except time and temperature signs, or other electronic changeable copy signs. In no event shall an illuminated sign or lighting device be so placed or directed as to permit focused light to be directed or beamed upon a public street, highway, sidewalk, or adjacent premises so as to cause glare or reflection that constitutes a traffic hazard or nuisance, nor shall any illuminated sign contain exposed neon lighting tubes.

7-6-6. No projecting sign shall be erected or maintained more than thirty-six (36) inches from the front or face of a marquee or building, unless otherwise provided.

7-6-7. Signs made of metal, glass, plastic with electric lights inside the sign may be erected, provided:

(1) They conform with all electrical codes for such electrical devices, and

(2) No electrical lights or fixtures shall be attached in any manner to a wooden sign which is attached to a building.

7-6-8. No sign shall be erected or maintained which extends above the roof of the building on which it is affixed. For purposes of interpreting this section, the roofline shall be considered identical to the height of the building as defined elsewhere in this ordinance.

7-6-9. No sign of any type or any foundation or support therefore shall be placed in any dedicated street or highway right-of-way, or in any utility and drainage easement, except as provided expressly herein. No sign shall overhang any public right-of-way.

7-6-10. Size, Height, and Spacing Regulations (ord. 98-72) (Ord 99-134, 10-25-99)

(1) Ground signs shall not exceed the following height maximums:

(a) all residential districts except R-4: 6 ft

(b) R-4, B-1: 12 ft.

(c) B-2: 15 ft.

(d) B-3, M-1, M-2 as follows:

1. M-1, M-2: 25 ft., except for highway attractor signs

2. For developed lots in the B-3 district only, an additional foot of height (above 25') may be added to the sign for each acre of

land on the site in excess of 10 acres that contains building, required parking, required landscaping, or required open space. (Example: Bldg. Size: 4 acres. Required Parking: 9 acres. Required open space: 3.75 acres. Required landscaping: 0.85 acres. Developed acres: 4 + 9 + 3.75 + 0.85 = 17.60. Acres in excess of ten = 7.60. Allowable sign height = 25' + 7.60' = 32.60 ft.)

(e) Reserved

(f) Reserved

(g) offsite multitenant lead-in signs in the B-3, M-1 or M-2 District: 15 ft.

(2) Reserved

(3) Reserved

(4) Reserved

(5) Reserved.

(6) Highway Attractor Signs-- Businesses with frontage on Madison Boulevard or 1-565, or located in between I-565 and Madison Boulevard, may erect one Highway Attractor Sign in addition to all other signs permitted by this Ordinance. Businesses with rear yards adjacent to I-565 may erect such signs in either their rear yards or their front yards. Businesses that front on Madison Boulevard but do not have rear yards adjacent to 1-565 may erect such signs only in their front yards. Businesses that front neither on Madison Boulevard nor I-565, and which are located within 1200 ft. of the centerline of I-565, may place a highway attractor sign anywhere on their lot, but set back at least 10 ft. from any property line. When any part of a commercially zoned lot is within 1200 ft. of the centerline of I-565, the business located thereon is considered to be located within 1200 ft. of said centerline for the purposes of this section. In no case, however, may a business erect two accessory ground signs in the same yard. The face of a Highway Attractor Sign may not exceed three hundred (300) square feet. The height of a Highway Attractor Sign may not be more than thirty-five (35) feet higher than the road bed of 1-565 at its closest point to the site of the Sign, and may in no case exceed sixty (60) feet in height measured from the ground next to the sign. However, a business, any part of whose lot lies within 1000 ft. of the center point of an overpass of an I-565 interchange which lies entirely within the City Limits, may erect a Highway Attractor sign up to 65 ft. in

height measured from the ground next to the sign, regardless of the elevation of the I-565 roadbed at its closest point to the site of the sign. (Ord. 94-70, 7-1-94)

7-6-11. Obstructions - No signs, nor any means of supporting or staying such signs, shall be so placed or constructed as to obstruct or interfere with any door, window, fire escape or other means of egress, light or ventilation.

7-6-12. No sign shall be located in such a position that the same obscures the view of pedestrian or vehicular traffic in such a manner as to endanger the safe movement thereof.

7-6-13. Signs fixed or mounted directly on or over windows are permitted provided that such signs do not cover more than twenty percent (20%) of the total window area. Such signs may be in addition to attached accessory signs as defined herein.

7-6-14. Signs are prohibited that are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

7-6-15. Signs are prohibited that contain or are an imitation of an official traffic signal or contain the words "stop," "go slow," "caution," "danger," "warning," or similar words, when used in such a manner that the same may be mistaken for or confused with an official sign.

7-6-16. Signs of a size, location, movement, content, coloring, or manner of illumination that may be confused with or construed as traffic control devices, or which hide from view of street traffic any traffic or street signal or sign are prohibited.

7-6-17. All signs shall be maintained in compliance with the sign standards of the Standard Building code as adopted by the City of Madison.

7-6-18. No Portable Signs, as defined herein, shall be permitted inside the City limits.

7-6-19. Reserved

7-6-20. Accessory signs that advertise a terminated activity, business, product, or service no longer produced or conducted on the premises upon which the sign is located are prohibited; provided however, that where premises are temporarily vacant, such signs may remain in place for not more than 120 days from the date of said vacancy.

7-6-21. Pennants, ribbons, streamers, spinners, or other similar moving, fluttering or revolving devices shall be maintained in a good state of repair and a safe condition.

7-6-22. Nothing in this ordinance shall be interpreted as restricting or prohibiting displays of any character, including signs, in any residential district, that are erected in

commemoration or celebration of a holiday, regardless of whether the holiday is recognized by the Federal, State or local government.

7-6-23. Nothing in this ordinance shall act to prohibit the posting of signs warning or alerting the public to a restriction or hazard on privately owned property. This includes such signs as "No Trespassing", "Beware of Dog", "Post No Bills", "No Solicitors", etc.

7-6-24. Nothing in this section shall be construed to prohibit devices or systems designed and intended to warn of height obstructions, severe weather, or civil emergency. Provided, however, that all such devices or systems must be required by law or ordinance, or approved by the City's Emergency Management Director pursuant to criteria developed by him.

Section 7-7. Temporary Political Signs

In addition to all other signs herein authorized, temporary, attached and ground signs advertising political parties, issues, or candidates, when the same are related to or concerning a pending election to be held within the city or county, may be erected and maintained temporarily prior to said election and shall be removed no later than ten (10) days after the election or any runoff election. The following terms and conditions shall apply:

7-7-1. In R-1, R-1A, R-1B, R-2, and R-3 districts the size of such signs shall not exceed six (6) square feet. In R-4, Neighborhood Business B-1, and Community Business B-2 and Highway Business B-3 districts all other zoning districts, said signs shall not exceed sixteen (16) square feet in area.

7-7-2. No height or setback shall be required, except as provided in Section 7-7-4, and except that no such sign shall be erected so as to violate the corner visibility provisions of this ordinance. Additionally, no such sign shall constitute a traffic or pedestrian hazard.

7-7-3. A $25 annual permit fee shall be paid to the Inspection Division by each candidate or campaign organization erecting temporary political signs within the City of Madison. The application form for temporary political signs shall be signed by the person responsible for removing or having removed said signs within the authorized time period. The name and address of the candidate or the campaign organization shall be clearly printed on the face of said signs.

7-7-4. No such sign shall be erected in or on any public right-of-way, public park, public building, public grounds, or other public place, and no such sign shall be affixed to any tree, fence post or telephone or utility pole, and it shall be unlawful for any person to erect or maintain any such sign upon the property of another without first having secured authorization or permission of the owner or person in possession of said property.

Section 7-8. Non-Conforming Signs

The following signs being maintained on the effective date of this ordinance are hereby declared to be a public nuisance and shall be brought into compliance according to the following schedule:

7-8-1. All signs constructed upon or overhanging any public street or highway, sidewalk excluded, and any sign that fails to meet the Standard Building Code wind load requirements, shall be removed by the owner or persons responsible for same within ninety (90) days after the effective date of this ordinance, and thereafter it shall be unlawful for any such person to keep or maintain such sign except in conformity with this ordinance.

7-8-2 through 7-8-7. Reserved

7-8-8(a). Subdivision and Apartment Identification Signs, as defined herein, that are existing on the date of adoption of this ordinance, are expressly declared to be exempt from the provisions of Sections 7-8-1 above, except that they must meet Standard Building Code wind load requirements to qualify for this exemption. Such signs shall be considered conforming signs until removed, relocated, or destroyed such that the cost of repair exceeds 50% of the original cost of the sign.

7-8-8-(b) Optional Dedication of Subdivision and Apartment Identification Signs. Subdivision and Apartment Identification signs may be dedicated to the City, and the land upon which they are erected vacated to the City by the developer in the same manner and subject to the same conditions as dedication of other public improvements. In order to dedicate such signs to the City, the developer must include such signs in the specified public improvements permitted by the Planning Commission or Administrative Officer, construct said signs to City of Madison specifications, and dedicate said signs pursuant to the provisions of the subdivision regulations of the City, including the posting of a maintenance bond in the amount of not less than 15% of the aggregated value of the signs.

Section 7-9. Setbacks

No sign and no supports for a sign shall be erected closer than ten (10) feet to any overhead electric transmission line or overhead telephone line nor closer than five (5) feet to any property line unless otherwise provided herein. However, in no case shall any sign in a B-1, B-2, B-3, M-1 or M-2 district be erected or protrude within ten (10) feet of any front yard property line. No sign shall be erected within nor protrude into any public right-of-way or utility easement.

Section 7-10. Appeals-Unnecessary Hardships

Any person aggrieved or any officer, department, board or bureau of the city affected by any Decision of the Director of the Community Development Department shall have a right to appeal to the Board of Adjustment within a reasonable time, as provided by the rules of said Board, by filing with the Director of Community Development a notice of appeal specifying the ground thereof. Said appeal shall be heard by the Board in the same manner and under the same rules and regulations as provided for other cases before said Board. The Board of Adjustment may authorize upon appeal in specific cases such variance from the terms of this article as will not be contrary to the public interest where,

owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the Zoning Ordinance and of this article shall be observed and substantial justice done.

Section 7-11. Inspection

All signs in the City of Madison for which permits are required under this ordinance shall be subject to periodic inspection by the Building Inspector. Such inspection shall take place beginning immediately after the adoption of this ordinance and thereafter shall be conducted on an ongoing basis.

Section 7-12. Maintenance

All signs shall be maintained in safe condition, free from damage or the results of excessive weathering. At any time the Chief Building Inspector shall find that any permitted sign is in a bad state of repair, or is in danger of falling, or presents a hazard from electrical shock or fire, or at any time a permitted sign is found to be in such bad state of repair or maintenance as to adversely affect the property values in the surrounding neighborhood, then said Building Inspector shall make and enter an order directed to the owner or person in charge of said sign commanding its removal or its repair or maintenance as therein stated. Any orders issued under this section shall be subject to an appeal to the Board of Zoning Adjustment in the same manner as other appeals are taken to said Board. The Board of Adjustment is hereby empowered to hear said appeal and to make and enter an order directing the repair or maintenance of said sign upon a finding by said Board that the condition of the sign, due to lack of maintenance, or disrepair, is a nuisance and adversely affects the property values in the surrounding neighborhood. Appeals from the Board of Zoning Adjustment shall lie to the Circuit Court in the same manner as all other appeals. It shall be unlawful for any person to continue to maintain any sign contrary to the orders of the Chief Building Inspector under this section, except during the time that such order is under appeal to the Board of Adjustment or to the Circuit Court as provided herein.

Section 7-13. Exceptions and Exemptions

This ordinance shall not apply to any signs erected and maintained pursuant to and in discharge of any government function, or required by any law or governmental

ARTICLE VIII

NON-CONFORMITIES

Section 8-1. Purpose

Within the districts established by this Ordinance or amendments that may later be adopted there may exist (a) lots, (b) structures, (c) uses of land and structures, which were lawful before this Ordinance was adopted or amended, but which would be

prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these non-conformities to continue until they are voluntarily removed, or removed as required by this Ordinance, but not to encourage their continuance. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded, intensified, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

8-1-1 Incompatibility with Permitted Uses. Non-conforming uses are declared by this ordinance to be incompatible with Permitted uses in the districts involved. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land in combination shall not be extended or enlarged after the effective date of this Ordinance or its amendment by attachment on structures or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

8-1-2 Construction of Non-Conforming Use. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition, or removal shall be deemed to be actual construction, provided that work shall be carried on diligently until the completion of the new construction involved.

Section 8-2. Non-Conforming Lots of Record

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Said lot must be in separate ownership and not in continuous frontage with other lots in the same ownership. This provision shall apply even though a lot fails to meet the requirements for area or width, or both that are applicable in the district, provided that yard dimensions (front, rear and side) and requirements other than those applying to area or width, or both of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment (Article X, Section 10-9)

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the effective date of adoption or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and for area, the lands involved shall be considered to be an

undivided parcel for the purposes of this Ordinance and no portion of said parcel shall be used in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.

Section 8-3. Non-Conforming Uses of Land

Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual, permanently-fixed structure with a replacement cost exceeding one thousand dollars ($1,000) and no combination of permanently-fixed structures with a replacement cost as high as four thousand dollars ($4,000), the use may be continued for the period provided in 8-3-4 below so long as it remains otherwise lawful, provided:

8-3-1 Enlargement, Increase, Intensification, Alteration. No such non-conforming use shall be enlarged, increased, intensified or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

8-3-2 Discontinuance. If any such non-conforming use ceases for any reason (except when governmental action impedes access to the premises) for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the District in which such land is located.

8-3-3 Subdivision or Structural Additions. No land in non-conforming use shall be subdivided, nor shall any structures be added on such land, except for the purposes and in a manner conforming to the regulations for the district in which such land is located, provided, however, that subdivision may be made which does not increase the degree of non-conformity of the use.

8-3-4 Cessation of Non-Conforming Uses of Land (or land with minor structures only) in certain districts. In implementing the intent of Section 8-3, the non-conforming use of land or use of land with minor structures only, as defined in Section 8-3 above, is hereby declared to be a public nuisance and shall be discontinued not later than three (3) years from the effective date of this Ordinance.

Section 8-4. Non-Conforming Structures

Where a structure exists lawfully under this Ordinance at the effective date of its adoption or amendment that could not be built under this Ordinance by reason of restrictions on area, residential densities, lot coverage, height, yards, location on the lot, or requirements other than use concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

8-4-1 Enlargement. No such non-conforming structure may be enlarged or altered in any way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.

8-4-2 Reconstruction. Should such non-conforming structure or non-conforming portion of a structure be destroyed by any means to an extent of more than fifty-one (51) percent of its replacement value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

8-4-3 Relocation. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 8-5. Non-Conforming Use of Major Structures or of Major Structures and Premises in Combination

Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of structures, or of structures and premises in combination exists involving an individual, permanently-fixed structure with a replacement cost at or exceeding one thousand dollars ($1,000) or a combination of permanently-fixed structures with a replacement cost at or exceeding four thousand dollars ($4,000), such use may be continued so long as it remains otherwise lawful provided;

8-5-1 Enlargement, Extension, Alteration, Etc. of Structures. No existing structure devoted to a use not permitted by this Ordinance in the district in which such use is located shall be enlarged, extended, constructed, reconstructed, moved to another location on the property, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

8-5-2 Change in Tenancy or Ownership. There may be a change in tenancy, ownership, or management of a non-conforming use provided there is no change in the nature or character of such non-conforming use.

8-5-3 Discontinuance. If any non-conforming use of a structure, or structure and premises in combination, ceases for any reason (except where governmental action impedes access to the premises) for a period of more than twelve (12) consecutive months, any subsequent use shall conform to the regulations for the district in which the use is located.

8-5-4 Destruction of Major Structure or Structures. Where non-conforming use status applies to a major structure or structures, or to a major structure or structures and premises in combination, removal, or destruction of the structures shall eliminate the non-conforming status of land. "Destruction" of the structure for purposes of this Subsection is hereby defined as damage to an extent of more than fifty-one (5l) percent of the replacement cost at the time of destruction. Upon removal or destruction as set

out in this Subsection, the use of land and structures shall thereafter conform to the regulations for the district in which such land is located.

Section 8-6. Non-Conforming Structures Unsafe Because of a Lack of Maintenance

If a non-conforming structure or portion of a structure or any structure containing a non-conforming use becomes physically unsafe or unlawful due to a lack of repairs or maintenance, and is declared by the Administrative Officer to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Section 8-7. Uses Under Special Exception Provisions Not Non-Conforming Uses

Any use which is permitted as a Special Exception in a district under the terms of this Ordinance shall not be deemed a non-conforming use in such district, but shall without further action be deemed a conforming use in such district.

ARTICLE IX

ADMINISTRATION AND ENFORCEMENT

Section 9-1. Administrative Officer

The provisions of this Ordinance shall be administered and enforced by the Administrative Officer (Municipal Building Inspector). This official shall have the right to enter upon any premises at any reasonable time prior to the issuance of a Certificate of Occupancy for the purpose of making inspections of buildings or premises necessary in carrying out his duties in the enforcement of this Ordinance.

If the Administrative Officer shall find that any of the provisions of this Ordinance are being violated, he shall take any action authorized to insure compliance with or to prevent violation of its provisions.

Section 9-2. Building Permits Required

It shall be unlawful to commence the excavation for the construction of any building or other structure, including accessory structures or to store building materials or erect temporary field offices, or to commence the moving, alteration, or repair (except repairs not changing the character of the structure and not involving Southern Standard Building Code inspection) of any structure without a building permit issued by the Administrative Officer. Applications for a building permit shall be made to the Administrative Officer on forms provided for that purpose and shall be accompanied by a fee according to a fee schedule currently in use by the City, and a site plan in conformance with Section 9-3 of this Ordinance.

Section 9-3. Approval of Plans and Issuance of Building Permit

It shall be unlawful for the Administrative Officer to approve any plans or issue a building permit for any excavation or construction until he has inspected such plans in detail and found them in conformity with this Ordinance. To this end, the Administrative Officer shall require that every application for a building permit for excavation, construction, use of land, moving, or alteration be accompanied by a plan or plat drawn to scale and showing the following in sufficient detail to enable the Administrative Officer to ascertain whether or not the proposed excavation, construction, use of land, moving or alteration 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 locations of all buildings or other structures to be erected, altered, or moved, and of any buildings or other structures already on the lot;

c) The existing and intended use of all such buildings or other structures;

d) The location and number of required offstreet parking and offstreet loading spaces;

e) The proposed number of dwelling units; occupants, employees, or other similar uses;

f) The setbacks, side yards, open spaces, required buffers, signs and other requirements of the applicable zoning district;

g) Any other information deemed necessary by the Administrative Officer to determine and provide for the enforcement of this Ordinance.

If the proposed excavation, construction, moving or alteration as set forth in the application is in conformity with the provisions of this Ordinance, the Administrative Officer shall issue a building permit accordingly. If an application for a building permit is not approved, the Administrative Officer shall state in writing on the application the cause for such disapproval. Issuance of a building permit shall, in no case, be construed as waiving any provision of this Ordinance, unless otherwise waived according to Article X, Section 10-9.

Section 9-4. Inspection

The construction or usage affected by any building permit shall be subject to four inspections: the first, when the foundation has been excavated; the second, when the foundation has been completed and the building lines have been established; the third, when all electrical and mechanical elements are in place; and the fourth, when the building or structure has been completed.

It shall be the duty of the holder of the permit to properly notify the Administrative Officer as to the time when the construction will be ready for inspection. Failure to make proper notification of the time for such inspection shall automatically cancel

the permit, requiring the issuance of a new permit before construction may proceed or occupancy may be permitted. The proper location of buildings and the verification of setback lines are the responsibility of the owner and not the Administrative Officer. Improper location of buildings is a violation of this Ordinance and may result in the revocation of the Building Permit and/or the Certificate of Occupancy.

Section 9-5. Certificate of Occupancy

9-5-1. No land or building or other structure or part thereof hereafter erected, moved, or altered in its use shall be used or occupied until the Administrative Officer shall have issued a Certificate of Occupancy stating that such land or structure, or part thereof, is found to be in conformity with the provisions of this Ordinance.

9-5-2 Temporary Certificate of Occupancy. When the Administrative Officer shall determine that some detail of this Ordinance has not been complied with, the Administrative Officer shall have the discretionary authority to issue a temporary, time-limited Certificate of Occupancy. Such Temporary Certificate of Occupancy may be issued if all of the following conditions are met:

1. Some special situation exists where, in the opinion of the Administrative Officer, it is not in the public interest to require strict compliance with this Ordinance.

2. A building inspector shall perform a final inspection of the structure, and shall certify that there are no violations of the adopted Building, Gas, Mechanical, Plumbing, Electrical or Fire Safety Codes that might render the structure unsafe in any way.

3. A Subcontractors List has been submitted to and approved by the Inspection Division in the Department of Community Development, according to the Division's rules for the approval thereof.

4. The Certificate is limited to a certain period of time not to exceed 180 days, but not longer than the special situation that gives rise to the need for a Temporary Certificate of Occupancy shall continue (e.g., special event). Such Temporary Certificate of Occupancy shall not be renewed beyond 180 days.

5. All required fees have been paid to the City in connection with the structure.

6. Temporary Certificates of Occupancy may be issued only to single family homes with temporary uses other than "single family dwelling". In all cases, the temporary permitted use shall be shown on the Temporary Certificate of Occupancy, and the Certificate shall be valid only for that use.

9-5-3 Issuance of Temporary Certificates of Occupancy. Issuance of a Temporary Certificate of Occupancy shall be within the discretion of the Administrative Officer, with all decisions on the Issuance or denial of such Certificates reviewable by the

Director of Community Development and the Mayor. Appeal of the administrative decision shall be to the Zoning Board of Adjustments and Appeals. A Temporary Certificate of Occupancy shall be canceled with twenty four (24) hours notice to the property owner if the Administrative Officer shall determine that one or more of the conditions in subsection 9-5-2 is no longer being met. (Ord. 90-14)

9-5-4 Within three (3) days after the owner, or his agent, has notified the Administrative Officer that a building or premises, or part thereof, is ready for occupancy or use, it shall be the duty of the Administrative Officer to make a final inspection thereof, and to issue a Certificate of Occupancy if the building and premises are found to conform with the provisions of this Ordinance; or, if such certificate is refused, to state the refusal in writing with the cause.

ARTICLE X

ZONING BOARD OF ADJUSTMENT

Section 10-1. Establishment of a Zoning Board of Adjustment

A Zoning Board of Adjustment is hereby established. Said Board shall consist of five (5) members, each to be appointed for a term of three (3) years by the City Commission, except that in the first instance, one member shall be appointed for a term of three years, two for a term of two years, and two for a term of one year. Thereafter, each member appointed shall serve for a term of three years or until his successor is duly appointed. In addition to the five regular members provided for in this Section, two (2) supernumerary members shall be appointed to serve on such Board at the call of the Chairman only in the absence of regular members and while so serving, shall have and exercise the power and authority of regular members. Such supernumerary members shall be appointed to serve for three (3) year terms and shall be eligible for reappointment. Each member may be removed for cause by the appointing authority upon written charges and after a public hearing.

The members of the Board of Adjustment serving on the effective date of this Ordinance under an Ordinance effective prior hereto shall be considered as the members to be appointed by the City Commission and each of these members shall serve the balance of the term to which such member was appointed.

10-1-1 Qualification of Members. Members of the Board of Adjustment shall not hold any other public position or office in the government of the City of Madison. All members of the Board of Adjustment shall be electors of the City of Madison.

10-1-2 Vacancies. Vacancies in Board membership shall be filled by appointment by the City Commission for the unexpired portion of the term of the member affected.

10-1-3 Removal. Members of the Board of Adjustment may be removed from office for cause by the appointing authority upon written charges and after a public hearing.

Section 10-2. Proceedings

10-2-1 Officers and Voting. The Board of Adjustment shall select a chairman and vice-chairman from among its members and may create such other offices as it may determine.

10-2-2 Rules of Procedure. The Board of Adjustment shall adopt rules of procedure necessary to its governance and the conduct of its affairs, in keeping with the applicable provisions of the Code of Alabama, and this Ordinance. Such rules of procedure shall be in written form available to persons appearing before the board and to the public.

10-2-3 Meetings. Meetings shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. Meetings shall not be held without at least twenty-four (24) hours notice to each member. The Board of Adjustment shall have the power to take testimony under oath and compel the attendance of witnesses.

10-2-4 Quorum; Minutes; Public Records. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member (including the Chairman or Vice-Chairman) or if absent or failing to vote, indicating such fact. The Board shall keep records of its examinations and other official actions, all of which shall be a public record and be filed immediately in the Office of the Board.

Persons appearing before the Board shall have no right of challenge of any Board member; provided, this provision shall not prohibit any person appearing before the Board from placing in the record a statement alleging bias and requesting disqualification for bias of any member or alternate member.

A quorum for the transaction of business shall consist of four (4) members; provided that no action that reverses the decision of the Administrative Officer shall be taken without the concurring votes of four (4) members.

10-2-5 Disqualification of Members. If any member of the Board of Adjustment shall find that his private or personal interests are involved in the matter coming before the Board, he shall disqualify himself from all participation in that case; or he may be disqualified by the votes of four (4) members of the Board, not including the member about whom the question of disqualification has been raised. No member of the Board of Adjustment shall appear before the Planning Commission or City Commission as agent or attorney for any person.

Section 10-3. Duties of the Administrative Officer, Zoning Board of Adjustment, City Commission and Courts on Matters of Appeal

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Officer, and that such questions shall be presented to the Zoning Board of Adjustment only on appeal from the decision of the

Administrative Officer and that recourse from the decision of the Zoning Board of Adjustment shall be by appeal to the appropriate court as herein provided.

It is the further intent of this Ordinance that the duties of the City Commission in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be stated in this Article. Under this Ordinance, the City Commission shall have only the duties of: (1) considering, adopting, or rejecting proposed amendments, or repealing this Ordinance, as provided by law; and (2) establishing a schedule of fees for permits and other expenses connected with the enforcement of this Ordinance.

Section 10-4. Powers and Duties of the Zoning Board of Adjustment

The Zoning Board of Adjustment shall have the following powers and duties:

(a) Upon proper application, to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this Ordinance or any other ordinance adopted pursuant thereto. (See Section 10-7 of this Ordinance).

(b) Upon proper application, to hear and decide Special Exceptions to the terms of this Ordinance upon which said Board is required to pass under such Ordinance. (See Section 10-8 of this Ordinance).

(c) Upon proper application, to hear and authorize in specific cases such Variances from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship and so that the spirit of the Ordinance shall be observed and substantial justice done. (See Section 10-9 of this Ordinance).

Section 10-5. Decisions of the Zoning Board of Adjustment

In exercising the above-mentioned powers, the Board of Adjustment shall reverse or affirm, wholly or in part, shall modify the order, requirement, decision, or determination as ought to be made, so long as such action is in conformity with the terms of this Ordinance, and to that end, shall have the powers of the Administrative Officer from whom the appeal is taken.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Officer, to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

Section 10-6. Appeals from Decisions of Zoning Board of Adjustment

Any person or persons, aggrieved by any decision of the Zoning Board of Adjustment may within fifteen (15) days thereafter appeal the decision to the appropriate court of law by filing with the Zoning Board of Adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken. In case of such appeal, the Board shall cause a transcript of the proceedings in the action to be certified to the court to which the appeal is taken, and the action in such court shall be tried de novo.

Section 10-7. Procedure for Appeal of the Decision of the Administrative Officer to the Zoning Board or Adjustment Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance or for Variance under this Ordinance may be taken by any person aggrieved or by any officer, agency, or bureau of the City of Madison affected by any decision of the Administrative Officer. Such appeals shall be taken within a reasonable time, not to exceed thirty (30) days. The Administrative Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time.

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

Section 10-8. Procedure for Special Exceptions

Applications may be taken to the Zoning Board of Adjustment for Special Exceptions to this Ordinance as defined in Article XII, Subsection 12-2-57. A Special Exception shall not be granted by the Zoning Board of Adjustment unless and until:

1. An applicant shall submit to the Zoning Board of Adjustment a written application for said Special Exception indicating the Section of this Ordinance under which the Special Exception is sought, and stating the grounds upon which it is requested.

2. A fee of fifty dollars ($50.00) shall be paid to the City Clerk to cover the cost and expense of the application to the Board of Adjustment.

3. The applicant shall submit with each application a list of names and addresses of all record property owners adjoining the exterior boundary of the subject property. Said list shall be current and certified by a professional engineer, an attorney, a registered surveyor, or a bonded abstractor.

4. Upon receipt of said written application, fee, and list, notice of public hearing before the Zoning Board of Adjustment shall be given by publication in a newspaper of general circulation in the City of Madison at least once a week for two (2) consecutive weeks and not less than fifteen (15) days before the meeting of the Board. In addition, notice of public hearing shall be given by mailing written notice by the Chairman of said Board to all owners of adjoining property.

(a) Legal description of the property and the street address or approximate location in the City of Madison;

(b) Present zoning classification of the property and the nature of the Special Exception requested;

(c) Date, time, and place of hearing.

Said written notice shall be mailed not less than fifteen (15) days before the meeting of the Board. A copy of the published notice may be mailed in lieu of written notice.

5. The Public Hearing shall be held by the Zoning Board of Adjustment. Any party may appear by agent or attorney.

6. The Board of Adjustment shall make a finding that it is empowered under the Section of this Ordinance described in the application to grant the special Exception, and that the granting of the Special Exception will not adversely affect the public interest. In addition, the Board shall determine that satisfactory provision and arrangement has been made concerning the following, where applicable:

(a) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

(b) Offstreet parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, or odor effect of the Special Exception on adjoining properties and properties generally in the district;

(c) Refuse and service areas, with particular reference to the items in (a) and (b) above;

(d) Utilities, with reference to locations, availability, and compatibility;

(e) Screening and buffering with reference to type, dimensions, and character;

(f) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

(g) Required yards and other open space;

(h) General compatibility with adjacent properties and other property in the district.

7. In granting any Special Exception, the Zoning Board of Adjustment shall issue a Special Exception Permit and prescribe the appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the Special Exception is granted, shall be deemed violation of this Ordinance and punishable under the penalty sections of this Ordinance. The Zoning Board of Adjustment shall prescribe a time limit within which the action for which the Special Exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the Special Exception.

Section 10-9. Procedure for Application of Variances

The Board of Adjustment shall have the power to authorize, in specific cases, such Variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions would result in an unnecessary hardship. (See definition of Variance, Article XII, Subsection 12-2-65). A Variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

1. An applicant shall submit to the Board of Adjustment a written application indicating:

(a) That special conditions and circumstances exist that are peculiar to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same district;

(b) That the literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;

(c) That the special conditions and circumstances do not result from the actions of the applicant;

(d) That granting the Variances requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district;

(e) No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a Variance.

2. A fee of fifty dollars ($50.00) plus the cost of legal notice advertising shall be paid to the City Clerk to cover the cost and expense of the appeal to the Zoning Board of

Adjustment. Fees for appeal petitions shall be payable prior to action by the City, the Planning Commission, and the Zoning Board of Adjustment.

3. The applicant shall submit with each publication a list of names and addresses of all record property owners adjoining the exterior boundary of the subject property. Said list shall be current and certified by a professional engineer, an attorney, a registered surveyor, or a bonded abstractor.

4. Upon receipt of said written application, fee, and list, notice of public hearing before the Zoning Board of Adjustment shall be given by publication in a newspaper of general circulation in the City of Madison at least once a week for two (2) consecutive weeks and not less than fifteen (15) days before the meeting of the Board. In addition, notice of public hearing shall be given by mailing written notice by the Chairman of said Board to all owners of adjoining property. Said notice shall contain:

(a) Legal description of the property and the street address or approximate location in the City of Madison;

(b) Present zoning classification of the property and the nature of the Variance requested;

(c) Date, time, and place of public hearing.

Said written notice shall be mailed not less than fifteen (15) days before the meeting of the Board. A copy of the published notice may be mailed in lieu of written notice.

5. The Public Hearing shall be held by the Zoning Board of Adjustment. Any party may appear by agent or attorney.

6. The Zoning Board of Adjustment shall make a finding that the requirements of Section 10-9 (1) above have been met by the applicant for a Variance.

7. The Zoning Board of Adjustment shall further make a finding that the reason set forth in the application justifies the granting of the variance and that the Variance is the minimum Variance that will make possible the reasonable use of the land, structure, or building.

8. The Zoning Board of Adjustment shall further make a finding that the granting of the Variance will be in harmony with the purpose and intent of this Ordinance, will not be injurious to the neighborhood, or will not be otherwise detrimental to the public welfare.

The Zoning Board of Adjustment, in granting any Variance, shall prescribe appropriate conditions, and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the

Variance is granted, shall be deemed a violation of this Ordinance and shall be punishable under the penalty section of this Ordinance.

The Zoning Board of Adjustment shall under no circumstances grant a Variance to allow a use not permissible under the applicable terms of this Ordinance or other general ordinance of the City of Madison with respect to the use district concerned, nor shall the Zoning Board of Adjustment hear or decide upon any matters that could be determined by regular zoning procedures before the Planning Commission and City Commission of the City of Madison; nor grant any Variance by reason of the existence of non-conforming uses in the district concerned or in adjoining districts.

Section 10-10. Abatement of noise, smoke, gas, vibration, fumes, dust, fire and explosion hazard or nuisance.

The Board of Adjustment may require the conduct of any use, conforming or 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 of Adjustment may direct the Administrative Officer to issue an abatement order, but such order may be directed only after a public hearing by said board notice of which shall be sent by registered mail to the owners and/or operators of the property on which the use is conducted in addition to due notice of advertisement in a newspaper of general circulation. A hearing to consider issuance of an abatement order shall be held by the Board of Adjustment either upon petition signed by any person affected by the hazard or nuisance or upon the initiative of the Board. An abatement order shall be directed by the Board of Adjustment only upon reasonable evidence of hazard or nuisance and such order shall specify the date by which the hazard or nuisance shall be abated.

ARTICLE XI

AMENDMENTS

Section 11.1. Initiation of Amendment (Ord 2000-237) (Ord. 2002-155)

The regulations, restrictions, procedures, Official Zoning Map, district regulations, and other material set out in this Ordinance may from time to time be amended, supplemented, changed or repealed. Proposed changes or amendments may be initiated by:

(a) City Council;

(b) Planning Commission;

(c) Any person other than those listed in (a) or (b) above; provided, however, that no such person shall propose an amendment for the rezoning of property which he does not own except as agent or attorney for an owner. In the event an agent or attorney applies for a zoning amendment on behalf of a landowner, a notarized statement of authorization, Durable Power of Attorney, or other adequate document executed by the landowner, must be presented to the City Attorney.

Section 11-2. Application and Fees

All zoning amendments shall be considered in the manner herein set out.

11-2-1 Application. All petitions for zoning change or amendment shall be made on forms available at the Community Development Department, and accompanied by a legal description of the property to be rezoned and a map indicating its location. Such application shall be filed with the Community Development Department not later than thirty (30) days prior to the Planning Commission's meeting at which the application is to be considered. The Planning Commission will not reconsider rezoning petitions for a period of twelve (12) months following denial by the City Council.

11-2-2 Fee. A fee of one hundred dollars ($100.00) plus the cost of legal notice advertising shall be paid to the City of Madison with each petition for zoning change to cover the administrative expenses and costs of amendment to the Zoning Ordinance. Fees for petitions to amend this Ordinance shall be payable prior to action by the City and its Commissions. In addition, the following fees shall be payable to the Community Development Department to defray the cost of analyzing the petition and making a recommendation thereon to the Planning Commission:

Review Fees for Zoning Changes

0-5 acres	$200.00
5.1 to 10 acres	$300.00
10.1 - 40 acres	$400.00
More than 40 acres	$500.00

Section 11-3. Planning Commission Procedure for Amendment

The Planning Commission shall review and make recommendations to the City Commission on all proposed amendments to this Ordinance as set forth below.

11-3-1 Planning Commission Public Hearing. The Planning Commission may, at its discretion, hold a public hearing on any proposed zoning amendment. When a public hearing is deemed necessary by the Planning Commission, notice of said hearing shall be published in a newspaper of general circulation in the City of Madison at least once a week for two (2) consecutive weeks prior to the hearing, provided further that the first notice shall appear fifteen (15) days in advance of said hearing. The notice shall state the time and place of the hearing, and stating further at such time and place, all persons who desire shall have an opportunity of being heard in opposition to, or in favor of, such amendment. In addition to the published hearing notice, a notice of such public hearing shall be sent to all landowners within a 500 ft. radius of the property by certified mail as their names appear upon the plats in the Madison County Tax Assessor's Office. It shall be the responsibility of the applicant to provide the list of names and addresses of adjoining property owners to the Community Development Department.

11-3-2 Planning Commission Report to City Council: Time Limit. Within sixty (60) days from the date a proposed zoning amendment is officially received by the Planning Commission, unless a longer time is mutually agreed upon between the City Council and the Planning Commission in the particular matter, the Planning Commission shall submit its report and recommendation to the City Council. If the Planning Commission does not submit its report and recommendations within the prescribed time, the City Council may proceed to action on the proposed amendment without further awaiting the report or recommendations of the Planning Commission.

11-3-3 Nature and Requirements of Planning Commission Report. When pertaining to the rezoning of land, the report and recommendations of the Planning Commission shall show that the Planning Commission has studied and considered the proposed change in relation to the following, where applicable:

(a) Whether the proposed change would be contrary to the Comprehensive Land Use Plan or the Adopted Future Land Use Map;

(b) The existing land use pattern;

(c) Possible creation of an isolated district unrelated to adjacent and nearby districts;

(d) The population density pattern and projected effects on schools, utilities, land conservation, and stormwater management,;

(e) Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change;

(f) Whether changed or changing conditions make the passage of the proposed amendment necessary;

(g) Whether the proposed change will, through negative external effects or the reasonably foreseeable creation of a nuisance, adversely influence living conditions in the neighborhood;

(h) Whether the proposed change will affect the projected level of service on roads depicted on the Adopted Major Street Plan on an average or peak hour basis;

(i) Whether the proposed change will create a drainage problem;

(j) Whether the proposed change will seriously reduce light and air to adjacent areas;

(k) Whether the proposed change will adversely affect property values in the adjacent area;

(l) Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations;

(m) Whether the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare;

(n) Whether there are substantial reasons why the property cannot be used in accord with existing zoning

(o) Whether the change suggested is out of scale with the needs of the neighborhood or the City;

When pertaining to other proposed amendments of this Ordinance, the Planning Commission shall consider and study:

(a) The need and justification for the change;

(b) The relationship of the proposed amendment to the purposes and objectives of the City's comprehensive planning program and to the Comprehensive Plan, with appropriate consideration as to whether the proposed change will further the purposes of this Ordinance and other city ordinances, regulations and actions designed to implement the Comprehensive Plan.

11-3-4 Status of Planning Commission Report and Recommendations. The report and recommendations of the Planning Commission required by Subsection 11-3-2 and 11-3-3 above shall be advisory only and shall not be binding upon the City Council.

11-3-5 Nature of Planning Commission Report and Recommendations. The Planning Commission may recommend adoption, denial, or adoption with conditions of the proposed rezoning. Such conditions shall be reasonably related to the projected impacts of the rezoning and shall be agreed to by the landowner. The landowner may, at any time, comply with such conditions by filing a plat of the property recording said conditions, as provided in Section 11-52-32, Code of Alabama.

Section 11-4. City Council Procedure for Amendment

The following procedure shall be followed by the City Council in its consideration of all proposed amendments to this Ordinance.

1. Should the Council request conditions for the approval of the rezoning, the petitioner shall be given no less that two (2) weeks from the date of the request to respond to the acceptability of said conditions.

11-4-2 Failure of City Council to Act If a Planning Commission recommendation for a change is not acted upon within sixty (60) days of the date of the Planning Commission's report to the City Council, the petition upon which the report and recommendation is based shall be deemed to have been denied.

11-4-3 Limitations on the Rezoning of Property.

1. When the Planning Commission has recommended that the property proposed for rezoning be approved with conditions pursuant to Sec. 11-3-5 above, or on initiative of Council, and the landowner agrees to said conditions, the Council may require the landowner to file a plat of the property to record said conditions in accordance with Sec. 11-52-32, Code of Alabama, prior to the publication of the Ordinance effecting the rezoning. In such instance, the City Clerk shall hold the publication of the Ordinance until the agreed restrictions have been recorded. Should the landowner fail to record said conditions within fifty business days after the Ordinance is adopted, the City Clerk shall not publish the Ordinance and the Ordinance shall be deemed void.

2. Whenever the City Council has, by amendment, changed the zoning classification of property, the Planning Council shall not then consider any petition for rezoning of any part or all of the same property for a period of six (6) months from the effective date of the amendatory ordinance.

3. Upon enactment of an amendment to the Official Zoning Map which is part of this Ordinance, the Administrative Officer shall cause such amendment to be placed upon the Official Zoning Map The Administrative Officer shall keep a permanent record of the proceedings related to all rezoning applications, the disposition and effective date thereof, and studies and findings related to such applications.

4. Upon enactment of an amendment to this Ordinance, a notice of such shall be published in a newspaper of general circulation published in the City of Madison announcing the new zoning classification of property affected or change in the provisions of the Ordinance. The change shall become effective upon the date of the announcement.

5. Whenever the City Council has denied an application for the rezoning of property, the Planning Commission shall not thereafter:

(a) Consider any further application for the same rezoning of any part or all of the same property for a period of one (1) year from the date of such action;

(b) Consider an application for any kind of rezoning on any part or all of the same property for a period of six (6) months from the date of such action.

11-4-4.1 Waiver of Time Limits. The time limits of Subsection ll-4-3 (2 & 5) above may be waived by five (5) affirmative votes of the City Council when such action is deemed necessary to prevent injustice or to facilitate the proper development of the City of Madison.

ARTICLE XII

DEFINITION OF TERMS

For the purpose of interpreting this Ordinance, certain words and terms are herein defined. The following words shall, for the purpose of this Ordinance, have the meaning herein indicated.

Section 12-1. Interpretation of Commonly Used Terms and Words (Ord. 2002-65)

12-1-1 Words used in the present tense include the future tense.

12-1-2 Words used in the singular number include the plural, and words used in the plural include the singular, unless the natural construction of the wording indicates otherwise.

12-1-3 The word "person" includes a firm, association, corporation, trust, and company, as well as an individual.

12-1-4 The words "used for" shall include the meaning "designed for".

12-1-5 The word "structure" shall include the word "building".

12-1-6 The word "lot" shall include the words "plot", "parcel", or "tract".

12-1-7 The word "shall" is always mandatory and not merely directory.

12-1-8 The word "map" or "zoning map", shall mean the "Official Zoning Map, City of Madison".

Section 12-2. Definitions of Commonly Used Terms and Words (Amended Ord. 95-163) (Ord. 2002-65)

Access. A way of approaching or entering a property.

Accessory Building or Use. A building or use which: (1) is subordinate to and serves a principal building or principal use; (2) is subordinate in area, extent, or purpose to the principal building or principal use served; (3) contributes to the comfort, convenience, or necessity of the occupants of the principal building or principal use; and (4) is located on the same zoning lot as the principal building or principal use except as herein provided. Examples of accessory uses are private garages, storage sheds and swimming pools.

Adjoining. Having property or district lines in common. In the instance of notification of a public hearing, property located across the street from a lot in question shall be considered as adjoining. The term "adjoining means the same as "adjacent."

Administrative Officer. The Director of the Department of Community Development or his authorized designee.

Alley. A public right-of-way, less than fifty (50) feet in width designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on some other street.

Alteration

(a) Any addition to the height or depth of a building or structure.
(b) Any change in the location of any of the exterior walls of a building or structure.
(c) Any increase in the interior accommodations of a building or structure.

Apartment. (See Dwelling, Multiple-Family).

Assisted Living. A living arrangement characterized by a residential setting in combination with personal custodial care assistance designed to respond to the individual needs of those who need help with the activities of daily living, but who do not require 24 - hour nursing care. Services provided may include personal care assistance, meals, laundry, medication reminders, and similar services. Assisted living facilities do not provide extensive medical care or a program of rehabilitative services to their residents. (Ord. 96-06)

Boarding House. A building other than a hotel, cafe or restaurant where, for compensation, meals are provided for three (3) or more persons.

Buffer Strip. A strip of land, established to protect one type of land use from another, with which it is incompatible.

Building. A structure, having a roof supported by columns or walls and intended to be used for sheltering people, animals, property or business activity.

Building Area. That portion of a lot remaining after required yard setbacks have been provided.

Building, Height. The vertical distance measured from the grade to the highest point of the coping of flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof.

Building Line. A line, parallel to the property line, indicating the nearest building distance to the street right-of-way line that is permissible by this Ordinance.

Building, Principal. A building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the principal building on the lot which it is situated.

Certificate of Occupancy. Official certification that a premise conforms to the provisions of the Zoning Ordinance (and building code) and may be used or occupied.

Child Care Center. A child care center is an establishment designed to provide daytime care or instruction for two (2) or more children, other than members of the family. The term includes day nurseries, kindergartens, day care centers, nursery school or play school.

City. City of Madison, Alabama.

Condominium Ownership. Condominium is that form of ownership of condominium property under which units of improvements are subject to ownership by one or more owners, and there is appurtenant to each unit as part thereof an undivided share in the common elements.

Contiguous. Being in actual contact; touching along a boundary or at a point. Things that are contiguous may not be separated by an intervening thing, such as a street or buffer. However, easements do not interrupt contiguity.

Districts. Any section of the City of Madison in which zoning regulations are uniform.

Dog Kennel. A structure used for the harboring of more than three (3) dogs that are more than six (6) months old.

Dwelling. Any building or portion thereof which is designed for use residential purposes.

Dwelling, Single-Family. A building arranged to be occupied by one (1) family, the structure having only one (1) dwelling unit.

Dwelling, Two-Family. A building arranged to be occupied by two (2) families living independently of each other, the structure having two (2) dwelling units.

Dwelling, Multiple-Family. A building arranged to be occupied by three (3) or more families living independently of each other.

Dwelling Unit. A building, or portion thereof, designed, arranged and/or used for living quarters for one (1) or more persons living as a single housekeeping unit with cooking facilities, but not including units in hotels or other structures designed for transient residence.

Family. An individual, or two or more persons related by blood, marriage, or legal action, or a group not exceeding five (5) persons living as a single housekeeping unit.

Family Care Facility. A facility which provides resident services to six (6) or fewer individuals of whom one (1) or more are unrelated. The individuals are handicapped, aged, disabled, mentally ill, or are undergoing rehabilitation and are provided services to meet their needs. This category involves uses licensed or certified by any Federal, State or County health/welfare agency.

Flood. An overflow of lands not normally covered by water that results in significant adverse effects in the vicinity.

Garage Apartment. A garage apartment is an accessory or subordinate building, not a part of or attached to the main building, where a portion thereof contains a dwelling unit for one (1) family only, and the enclosed space for at least one (1) automobile is attached to such dwelling unit.

Group Care Facility. A facility which provides a resident services to seven (7) or more individuals, of whom one (1) or more are unrelated. These individuals are handicapped, aged, disabled, mentally ill, or are undergoing rehabilitation and are provided services to meet their needs. This category involves uses licensed or certified by any Federal, State or County health/welfare agency.

Group Development. A tract of land under single, corporation, firm, partnership, or association ownership, planned and developed as an integral unit, in a single development operation or a definitely programmed series of development operations and according to an approved development plan. A group development may be residential, commercial, industrial, or institutional in nature.

Hardship. A condition existing when the conditions imposed by the Zoning Ordinance would deprive the property owner of certain development rights that are enjoyed by other property owners within the same zoning district. Upon examination of the hardship claimed, it should be determined that: (1) the property owner did not bring this hardship upon himself; (2) the physical site conditions are such that a hardship does exist; or (3) the property owner would be deprived of rights which are normally afforded under the same regulations for the zone in which his property is located. The term "hardship" should never be interpreted as meaning personal or economic hardship to the property owner.

Home Occupation. An occupation or business activity which results in a product or service and is conducted in whole or in part in the dwelling unit, and is clearly subordinate to the residential use of the dwelling unit.

Hotel, Motel, Motor Hotel, Motor Lodge, Tourist Court. The words hotel, motel, motor hotel, motor lodge, tourist court, are to be considered synonymous terms and to mean a building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental to transients with daily charge, as distinguished from multiple family dwellings and rooming or boarding houses, where rentals are for periods of a week or longer and occupancy is generally by residents rather than transients. Where more that one-half (1/2) of the units in a hotel, motel, motor hotel, motor lodge, or tourist court have cooking facilities, such an operation shall be deemed a multiple-family dwelling and shall be subject to this Zoning Ordinance as a multiple-family dwelling.

Junk Yard. The use of more than six hundred (600) square feet of any lot or tract for the outdoor storage and/or sale of waste paper, rags, scrap metal, or other junk, and including storage of motor vehicles or machinery.

Loading Space, Offstreet. Offstreet loading space is space logically and conveniently located for pickups and/or deliveries or for loading and/or unloading, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled, provided the minimum size of any required offstreet loading space shall have clear horizontal dimensions of twelve (12) feet by thirty (30) feet exclusive of platforms and piers and a clear vertical dimension of fourteen (14) feet.

Lot. A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose whether immediate or future, of transfer of ownership or for building development.

Lot, Corner. A lot which occupies the interior angle at the intersection of two (2) street lines. The street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal, in which case, the owner shall be required to specify which is the front.

Lot, Depth. The mean horizontal distance between the front and rear lot lines.

Lot of Record. A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Probate Judge of Madison County, or a lot described by metes and bounds, the description of which has been so recorded.

Lot, Width. The distance between side lot lines measured at the building setback line.

Mobile Home. A dwelling unit constructed on a chassis and which has been so designed that it may be occupied and used with or without a permanent foundation. It is intended for year-round occupancy and is equipped with appliances and electrical and sanitary systems that function independently of auxiliary facilities so that only simple utility connections are needed. A mobile home unit may have collapsing or telescoping parts that can be expanded, or consist of two separate units joined at the site into a single home (double-wide). Removal of wheels or chassis and placing such a structure on the ground, piers, or other foundation shall not remove such a unit from this definition.

Mobile Home Park. A parcel of land under single ownership, designed, maintained, intended or used for the purpose of supplying a location or accommodations for two (2) or more mobile homes for non-transient use. This definition shall not include mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sale.

Mobile Home Subdivision. A subdivision which meets the requirements of the Madison Subdivision Regulations.

Non-conforming Uses. Any lawful use of land, building or structures existing at the time of adoption of the Zoning Ordinance, which does not conform with the regulations of the district in which it is located.

Non-Residential Use. A use which is not a residential use or accessory to a residential use.

Parking Space. A permanently surfaced area, enclosed or unenclosed, of not less than ten (10) feet by twenty (20) feet, together with a permanently surfaced driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile. It shall be located outside the street right-of-way and required side yards.

Planning Commission. Planning Commission of the City of Madison, Alabama.

Rooming House. Any building or portion thereof which contains not less than three (3) or more than nine (9) quest rooms which are designed or intended to be used, let, or hired out for occupancy by individuals for compensation whether paid directly or indirectly.

Sexually oriented business: any business exhibiting any one or more of the following characteristics:

(a) the business holds itself out to the public as a “sex business,” “adult business,” or similar by advertising itself as such in the local media or through the use of signage or other forms of communication. Use of the letters “XXX” or the terms “sex” or “adult” in signage or advertising shall create a presumption that the business is a sexually oriented business.

(b) More than 5% of the business' stock in trade or 5% of its gross floor area consists of instruments, devices, or paraphernalia either designed as representations of the female breasts or human genital organs, or designed or marketed for use primarily to stimulate the human genital organs.

(c) The business offers for sale, rent, or on-premise viewing or listening any written, printed, pictorial, film, videotape, electronic media, or other material which is designed or marketed for use primarily to stimulate the human genital organs.

Sign, Flashing. A flashing sign is a sign designed to attract attention by the inclusion of a flashing, changing, revolving, or flickering light source or a change of light intensity.

Sign, Hanging. A hanging sign is a sign which hangs down from and is supported by or attached to the underside of a canopy, awning, marquee, or extension of a structure.

Sign, Moving. A moving sign is a sign designed to attract attention by physical movement of all or parts of the sign including rotation, motion, or by the perception of motion.

Sign, Projecting. A projecting sign is a sign attached to a building or other structure and not extending further beyond the line of the building or structure, or beyond the surface of the building or structure to which it is attached, than is permitted by the District in which it is located.

Special Exception. A Special Exception is a use that would not be appropriate generally or without restriction throughout a zoning division or district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or the general welfare. Such uses may be permissible in a zoning classification or district as a Special Exception if specific provision for such a Special Exception is made in this Ordinance. (For procedure in securing Special Exceptions, see Section 10-8.)

Stand. An area within the mobile home park which has been improved for a single mobile home as provided in this Ordinance.

Story. The term "story" shall mean that portion of a building or structure included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building or structure included between the upper surface of the topmost floor and the ceiling or roof above.

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

Street Frontage. All the property on one side of a street between two (2) intersecting streets (crossing or terminating), or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

Street Line. The dividing line between a right-of-way and the contiguous property.

Structure. Anything constructed or installed or portable that requires for normal use a location on a parcel of land. This includes any movable structure located on land which can be used either temporarily or permanently for housing, business, commercial, agricultural, or office purposes. It also includes fences, billboards, poles, pipelines, transmission lines, and advertising signs.

Town Houses or Row Houses. Town houses or row houses are three (3) or more single-family attached structures separated by fire party walls.

Variance. A Variance is a relaxation of the terms of this Ordinance where such Variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship on the land. As used in this Ordinance, a Variance is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited or not permitted shall not be allowed by Variance, nor shall a Variance be granted because of the presence of non-conformities in the zoning classification or district or adjoining zoning classifications or districts.

Yard. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and main building shall be used.

Yard, Front. A yard extending across the full width of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building or any projection thereof, other than steps. For exceptions, see Figure 1.

Yard, Rear. A yard extending across the rear of a lot measured between side yard lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall, in all cases, be at the opposite end of the lot from the front yard. See Figure 1 for exceptions concerning double-frontage lots.

Yard, Side. A yard between the building and the side line of the lot and extending from the front yard to the rear lot line and being the minimum horizontal distance between a side lot line and the side of the main building or any projections other than steps.

ARTICLE XIII

REMEDIES AND PENALTIES

Section 13-1. Remedies

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the City in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, to use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure or use in or about such premises.

Section 13-2. Penalties for Violation

Any person, firm, or corporation who violates any provision of this Ordinance or any order promulgated by an officer of the City charged with its enforcement or administration shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment or hard labor not exceeding six (6) months or both. provided, that no penalty shall consist of the fine or sentence or imprisonment exceeding the maximum fine and sentence established under State law for the commission of a substantially similar offense. Each day any violation of this Ordinance shall continue, shall constitute a separate offense.

ARTICLE XIV

HOME OCCUPATIONS

Section 14-1. Permit Procedures

Home occupations complying with the criteria established in Section 14-1-1 shall be considered minor in character and permitted by right. Major home occupations shall commence only after the receipt of a special exception from the Zoning Board of Adjustments, as outlined in Section 10-8 of this Ordinance.

14-1-1 Criteria for Minor Home Occupations

Use classified as minor shall be permitted in all zoning districts which allow residential land uses. The following regulations shall apply to all minor home occupations.

A. The use shall be conducted entirely within a dwelling and carried on by the inhabitants thereof and no others, with the following exceptions:

1. in residential day care facilities, outside play shall be permitted to the extent required by State day care regulations, and State-approved substitute workers shall be permitted to participate in the residential day care home occupation. The licensee and day care operator shall be the same individual.

2. professional services may be rendered outdoors to the extent required, in the opinion of the service provider. For example, clergy may counsel individuals outdoors, artists may work outdoors, etc.

3. instruction which must be provided outdoors, such as certain athletic instruction, may be so provided, if it generates no effects beyond the property line any greater than would be normally expected for a residence. In no event shall musical instrument instruction be provided outdoors.

B. The use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure shall not be altered by the occupation within the residence be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, or vibrations that carry beyond the premises.

C. No more than one room of the dwelling may be used for the home occupation, except that this requirement will not apply in the case of family day care facilities. (Ord. 92-25)

D. There shall be no advertising, display, or other indications of a home occupation on the premises.

E. There shall not be conducted on the premises the business of selling stocks of merchandise, supplies, or products, provided that orders previously made by telephone or at a sales party may be filled on the premises. That is, direct sales of products off display shelves or racks is not allowed, but a person may pick up an order placed earlier as described above.

F. No storage or display of goods shall be visible from outside the structure.

G. No highly explosive or combustible material should be used or stored on the premises. No activity shall be allowed that would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.

H. A home occupation shall not create greater vehicle or pedestrian traffic than normal for the district in which it is located.

I. Parties for the purpose of selling merchandise or taking orders shall not be held more than once each month.

J. A home occupation shall not create the need for additional parking spaces in excess of those required by Article V of this Ordinance for the use of the property as a dwelling.

K. No use of material or equipment not recognized as being part of the normal practices of owning and maintaining a residence shall be allowed.

L. Notwithstanding any provision contained herein to the contrary, garage, basement, yard, or other similar sales shall not be allowed more than twice each year, and each sale shall not last more than 10 consecutive hours.

M. No deliveries from commercial suppliers may not be made to the dwelling. All supplies must be picked up off-site by the individual conducting the home occupation.

N. Permitted minor home occupations include, but are not necessarily limited to, the following:

1. Artists and sculptors;

2. Authors and composers;

3. Home crafts for sale off-site;

4. Office facility of minister, rabbi, or priest;

5. Office facility of a salesman, sales representative, or manufacturer's representative provided that no transactions are made in person on the premises;

6. Professional office facilities not excluded elsewhere in this Ordinance;

7. Individual tutoring;

8. Preserving and home cooking for sale off-site;

9. Individual instrument instruction provided that no instrument may be amplified;

10. Telephone solicitation work

11. Family day care in a residential dwelling not involving more than six children. (Ord. 92-25)

O. The following uses by the nature of the investment or operation have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for

residence purposes. Therefore, the uses specified below shall not be permitted as minor home occupations:

1. All uses prohibited as major home occupations;
2. Minor or major auto repair;
3. Barber shop;
4. Carpentry work;
5. Dance instruction;
6. Dental offices;
7. Medical offices;
8. Painting of vehicles, trailers, or boats;
9. Photo developing, photo studios;
10. Private schools with organized classes;
11. Television repair;
12. Upholstering;
13. Beauty parlors;
14. Massage parlors;
15. Small engine repairs;
16. Welding shop; and
17. Other similar uses.

Section 14-1-2. Criteria for Major Home Occupations

Uses classified as major shall be considered special exceptions administered according to Section 10-8 of this Ordinance. Residential R-1A, R-1B, and R-2 districts should, in general, be protected from major home occupations, unless it can be specifically demonstrated that such a use will have no short- or long-term negative impact on the neighborhood. To this extent, the following regulations shall apply to all major home occupations.

A. The use shall be conducted entirely within a dwelling and carried on by the inhabitants thereof and no others, except that with the following exceptions:

1. in residential day care facilities, outside play shall be permitted to the extent required by State day care regulations, and State-approved substitute workers shall be permitted to participate in the residential day care home occupation. The licensee and day care operator shall be the same individual.

2. professional services may be rendered outdoors to the extent required, in the opinion of the service provider. For example, clergy may counsel individuals outdoors, artists may work outdoors, etc.

3. instruction which must, by its nature or for safety reasons, be provided outdoors, such as certain athletic instruction, may be so provided, if it generates no effects beyond the property line any greater than would normally be expected for a residence. In no event shall musical instrument instruction be provided outdoors.

B. The use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure shall not be altered by the occupation within the residence, nor be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, or vibrations that carry beyond the premises. (Ord.92-25)

C. The total area used for such purposes(including storage) shall not exceed the equivalent of one-half of the floor area, in square feet, of the first floor of the user's dwelling unit, if any; otherwise, the main floor of the dwelling unit. In no case shall more than two rooms of the dwelling unit be used for the Home Occupation. This restriction shall not apply in the case of group day care facilities. (Ord. 92-25)

D. There shall be no advertising, display, or other indications of a home occupation on the premises. (Ord. 92-25)

E. There shall not be conducted on the premises the business of selling stocks of merchandise, supplies, or products, provided that incidental retail sales may be made in connection with other permitted home occupations; for example, a single-chair beauty parlor would be allowed to sell combs, hair spray and other miscellaneous items to customers. However, a dressmaker would be required to do only custom work for specific clients and would not be allowed to develop stocks of dresses for sale to the general public on-site.

F. There shall be no exterior storage on the premises of material used in the home occupation nor of any highly explosive or combustible material. No activity shall be allowed which would interfere with radio or television transmission in the area; nor shall there be any offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.

G. A home occupation, including studios or rooms for instruction, but not including group day care facilities, shall provide additional off-street parking area reasonably adequate to accommodate needs created by the home occupation of not less than one parking space for each 300 square feet of floor area devoted to the home occupation, said spaces to be in addition to the spaces required by Article V of this

Ordinance. In the case of group day care facilities, one additional parking space shall be provided for each employee not residing in the dwelling. (Ord. 92-25)

H. Deliveries from commercial suppliers may not be made more than once each week, and the deliveries shall not restrict traffic circulation.

I. Parties for the purpose of selling merchandise or taking orders shall not be held more often than three times each month.

J. Notwithstanding any provision contained herein to the contrary, garage, basement, yard, or other similar sales shall be permitted not more than once each month, and each sale shall not last more than 15 consecutive hours.

K. Permitted major home occupations shall include but are not necessarily limited to the following:

1. Any use allowed as a minor home occupation;

2. Single-chair beauty parlors and barber shops;

3. Photo developing;

4. Organized classes with up to six students at one time;

5. Upholstering;

6. Dressmaking;

7. Woodworking, excluding cabinet making;

8. Group day care in a residential dwelling caring for more than six children, but no more than twelve children. (Ord. 92-25)

L. The following uses, by the nature of the investment or operation, have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residence purposes and are more suited to professional or business districts. Therefore, the uses specified below shall not be permitted as home occupations:

1. Minor or major auto repair, painting of vehicles, trailers, or boats;

2. Funeral chapel or home;

3. Gift shops;

4. Medical or dental clinic;

5. Rental businesses;

6. Catering;

7. Photos studios;

8. Massage parlors;

9. Welding or machine shops; and

10. Any retail, wholesaling, or distribution not specifically enumerated as a permitted use or special exception use, or accessory to such a use.

14-2 Applications, Permits, and Inspections

14-2-1 Applications.

Individuals wishing to conduct a home occupation in a dwelling that they own may apply to the Director of Community Development for a Home Occupation Permit on forms available from the Department. Individuals other than the dwelling owner who wish to conduct a home occupation in the dwelling must submit a letter from the owner granting permission for the home occupation along with the application, or the application will not be accepted. A one-time fee of $30 shall be paid to the Department with the application.

14-2-2 Classification and Approval

The Director of Community Development will classify Home Occupation Permit Applications as Major or Minor Home Occupations. Major Home Occupation Applications will be referred to the Board of Adjustment for processing in accordance with Section 10-8 of the Zoning Ordinance. Minor Home Occupation Applications will be approved administratively by the Director or his designee upon presentation of representations and/or verifications provided by the applicant, provided that the Director or his designee finds that the conditions established in Section 14-1-1 of this Ordinance are met. Minor Home Occupation Applications that are denied administratively may be appealed to the Board of Adjustment under the provisions of Section 10-7, or by resubmitting the application as a Major Home Occupation and requesting a Special Exception under Section 10-8 of this Ordinance.

14-2-3 Inspections

The Director of Community Development or his designee shall have the right, at any reasonable time, and upon reasonable request, to enter and inspect the premises covered by a Home Occupation Permit, in order to ensure compliance with the terms of said permit, or for other lawful reasons.

14-2-4 Permits

Applicants whose requests for Home Occupation Permits are approved shall pay an annual fee of $7.50 to the City Clerk on or before January 1 of each year for the privilege of conducting the home occupation. Said fee shall be in addition to fees for a City of Madison Business Privilege License, and any other fees required by law. The City Clerk shall refuse to renew a Home Occupation Permit on advice from the Director of Community Development that representations made on the Home

Occupation Permit Application are, or have become, an inaccurate description of the business, or that other conditions in this Ordinance are not being met.

14-2-5 Transferability

Home Occupation Permits are not transferable between individuals, nor are they valid for a location other than the location noted on the permit. An individual who moves may not resume their home occupation in the new location without reapplying for a Home Occupation Permit.

14-2-6 Prior Nonconforming Home Occupations

Individuals who have received Special Exception Approval from the Board of Adjustment to operate a home occupation shall be exempt from reapplying for Home Occupation Permits, provided that the home occupation has been pursued continuously since the approval was granted. However, such individuals must purchase Home Occupation Permits for the year after the year in which this Ordinance becomes effective.Individuals who operate home occupations, who have not received Special Exceptions to do so, shall have four months from the date of this Ordinance to apply for a Home Occupation Permit without penalty. Thereafter, individuals who are found to be engaging in home occupations without the necessary permits shall be subject to penalties provided for in Section 13-2 of this Ordinance.